

**PROPOSED LOCAL RULES
U.S. BANKRUPTCY COURT FOR THE
DISTRICT OF PUERTO RICO**

January 23, 2007

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BANKRUPTCY LOCAL RULES

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Rule 1001-1

Title; Scope and Effective Date of Rules

(a) Local Rules of Court. The Supreme Court of the United States has, pursuant to 28 U.S.C. § 2075, prescribed rules of procedure in bankruptcy cases. Federal Rule of Bankruptcy Procedure 9029 provides that courts may adopt local rules that are not inconsistent with the Federal Rules of Bankruptcy Procedure. The following rules are adopted as the local rules of the United States Bankruptcy Court for the District of Puerto Rico – subject to the limitations set forth in Rule 77.2(b) of the Local Rules of the United States District Court of the District of Puerto Rico – and will govern procedure in all cases and proceedings under Title 11 of the United States Code in the District of Puerto Rico. These rules may be referred to as the “Puerto Rico Local Bankruptcy Rules,” and will be cited as “P.R. LBR,” or simply LBR when cited within a local rule. Official forms appended to these LBRs will be referred to as P.R. LBF, or simply LBF when cited herein.

(b) Applicability of Other Rules. The Local Rules of the U.S. District Court for the District of Puerto Rico will apply to the extent that a procedural matter is not covered by these LBRs or the Federal Rules of Bankruptcy Procedure. These rules may be referred to as the “Puerto Rico Local District Rules,” and will be cited as “P.R. LDR” or simply LDR.

(c) Waiver or Modification of Local Rules. The provisions of these rules may be waived or modified in any case or proceeding, on motion or on the court’s own initiative, for the convenience of the parties or in the interest of justice, as determined by the Court.

(d) Adoption of Certain Rules of the U.S. District Court. The provisions of LDRs 43, 44, 56, and 65.1 are applicable to adversary proceedings and contested matters in the U.S. Bankruptcy Court, to the extent that they are not inconsistent with these LBRs, the Federal Rules of Bankruptcy Procedure, and Title 11 of the United States Code.

(e) Meaning of Terms. Except as otherwise noted, the terms used herein have the same meaning as ascribed to them under Fed. R. Bankr. P. 9001, or as defined in other sections of the Bankruptcy Code and Rules. Except when a matter is pending before the District Court, the references in the Local Rules for the District of Puerto Rico to “Court,” “Judge,” and “Clerk” should be read as the “United States Bankruptcy Court,” “Bankruptcy Judge,” and “Clerk of the United States Bankruptcy Court,” respectively.

(f) Failure to Comply with Local Rules. Failure to comply with the provisions of these LBRs may result in sanctions which may include but are not limited to: the imposition of monetary sanctions; non-monetary sanctions; dismissal of the case or proceeding; or denial of the relief sought, as the court in its discretion deems appropriate.

(g) Effective Date. These rules are effective on _____, and supersede all previously adopted rules and administrative orders of the U.S. Bankruptcy Court for the District of Puerto Rico.

(h) General and Special Orders .

(1) The Court may supplement these rules, subsequent to their effective date, by general or special orders and administrative procedures issued by the Court as needed.

(2) All future general orders and administrative procedures will be categorized by the year of adoption and numbered consecutively. Copies of these may be obtained from the Clerk, through the court's web site (www.prb.uscourts.gov) and in the public area of the Clerk's office.

(i) Availability of Information Through the Court's Website. Detailed information regarding filing requirements, Administrative Office and Local Forms, fees, general and administrative orders, or any other information regarding these LBRs are available at the Clerk's office and through the court's web site (www.prb.uscourts.gov).

Rule 1002-1

Petition – General

(a) Filing. A petition commencing a case under the Bankruptcy Code must be filed by electronic means as established by the court. Only *pro se* debtors or attorneys who have not obtained their CM/ECF training, login and password may file a petition in paper in the office of the Clerk. Attorneys who need to file by paper method must include a motion requesting permission to file and informing the court when they expect to comply with the mandatory electronic requirements of this court.

(b) Form. A petition commencing a voluntary case must conform with Official Form No. 1 and be fully completed by the petitioner.

(c) Corporate Petition and Petitions for Non-Individuals.

(1) Corporate Petitions. A petition filed by a corporation must be signed in accordance with 28 U.S.C. § 1746, or verified by an authorized officer or authorized agent of the corporation; it must include a copy of the resolution of the board of directors or minutes of the corporate meeting, or other evidence of the authority of the verifying officer or authorized agent to file the bankruptcy petition on behalf of the

corporation.

(2) Petitions for Other Non-Individuals. A petition by a partnership, trust, or other non-individual debtor must be signed and verified by a general partner, or trustee or appropriate agent; it must include evidence of the signatory's authority to file the bankruptcy petition.

(3) Legal Representation Required for all Corporations, Partnerships or Other Non-Individuals. The Clerk is not authorized to accept for filing a petition on behalf of a corporation, partnership, trust, or other non-individual which is not represented by counsel. This requirement is substantive, and not one of "form," as addressed in Fed. R. Bankr. P. 5005(a).

(4) "Doing Business As" ("DBA") or "Formerly Known As" ("FKA"). The Clerk is not authorized to accept for filing a petition by an individual, corporation, or other legal entity that lists as a DBA or FKA a separate corporation or other legal entity. A corporation or other legal entity must file a separate petition even if it considers itself the DBA or FKA of an individual, corporation, or other legal entity, and even if its charter was revoked pre-petition. This requirement is substantive, and not one of "form," as addressed in Fed. R. Bankr. P. 5005(a).

Rule 1003-1

Involuntary Petitions

(a) Required Designation. An involuntary petition filed against a non-individual debtor must include a designation of the alleged debtor's principal operating officer, trustee, managing general partner, or other appropriate authorized agent, as the case may be. If the petitioning creditor(s) does not know the identity of the person(s) designated under this LBR, a statement to that effect must be included.

(b) Partnership Lists. An involuntary petition relating to partnership debtors must include a list with the names, addresses, and telephone numbers of all general and limited partners. If the petitioner(s) does not know this information, a statement to that effect must be included.

Rule 1004-1

Petition – Partnership

A voluntary partnership petition must include a verified statement or declaration that all general partners

consent to and join the filing of the bankruptcy petition. If the required verified statement is not filed, the petition will be treated as an involuntary filing against a partnership.

Rule 1005-1

Filing Papers – Requirements

(a) Caption of Papers. The bankruptcy case name, number, judge's initials, chapter, and asset/no asset designation must appear on all documents filed electronically or with the Clerk.

(b) Header. The bankruptcy case name, number, and judge's initials must appear on all subsequent pages of the document.

(c) Size. All documents and pleadings, including the petition, schedules, statements, lists, and other documents, must be in a portable document format (pdf) which measures 8 ½" x 11". The resolution measured in "dots per inch" (dpi) must be in the range of 200 to 240. When necessary to comply with this rule, photo reduction of documents is required.

(d) Signature. Each pleading filed must include a signature block with the name, address, email address and telephone and facsimile numbers of the party or attorney filing the pleading. Signature blocks for attorneys must include the law firm's name, the name of the client and the attorney's bar admission number for the U.S. District Court for the District of Puerto Rico. Electronic signatures of debtors, attorneys, trustees and all other filers must comply with the requirements of General Order 05-01 regarding Administrative Procedures for Filing, Signing and Verifying Pleadings and Papers by Electronic Means.

(e) Caption of Amendments. Any paper filed to effect an amendment of a previously filed or served paper- including bankruptcy petition, lists, schedules, and statements - must clearly state in bold print that it is an amendment. The appropriate filing fee and the added creditors clearly marked on the motion must accompany any amendment adding creditors to the case.

Rule 1006-1

Filing Fee – Manner of Payment

The filing fee commencing a case filed electronically must be paid at the time of filing by credit card over the internet and in conformity with the applicable provisions established by the court in General Order 05-01 regarding Administrative Procedures for Filing, Signing and Verifying Pleadings and Papers by Electronic Means, and any subsequent order addressing payment issued by the court and available at the court's website, www.prb.uscourts.gov. For persons authorized to file by paper at the office of the

Clerk, payment must be made in cash or by cashier's check or money order, made payable to "Clerk, U.S. Bankruptcy Court." Payment by personal check or credit card will be accepted only if the check or credit card is in the name of the attorney for the debtor, or the law firm of which the attorney for the debtor is a member, partner or associate; or in a Chapter 11 case, on the account of the debtor-in-possession. The Clerk will maintain a list of attorneys and law firms whose checks have been dishonored, and may refuse to accept the checks of such attorneys or firms.

Rule 1006-2

Fees – Installment Payments, In Forma Pauperis and Electronic Refunds

(a) Filing Fee in Installments. Any individual debtor desiring to pay the filing fee in installments must file an Application with the Clerk conforming to the AO Form 16B entitled "Application to Pay Filing Fee in Installments." That debtor(s) must pay \$50.00 at the time of the filing of the petition. The balance of the total fee must be paid in no more than three (3) equal installments, payable every thirty (30) days thereafter until paid in full.

(b) Procedure to Waive Filing Fee (Proceed in forma pauperis). An individual who files a voluntary Chapter 7 petition may request to have all filing fees waived by filing a completed and signed Application for Waiver of the Chapter 7 Filing Fee using Official Form B3B. The granting of the application approves the waiver of all future fees which may arise in the case.

(c) Failure to Pay Installments.

(1) Rejection of Petition. When filed by conventional means, if a petition is filed without full payment of the filing fee, *in forma pauperis* or without an Application to Pay Filing Fee in Installments, or if an Application to Pay Filing Fee in Installments does not conform with the requirements of Fed. R. Bankr. P. 1006 and this LBR, the Clerk shall reject the petition. For petitions filed electronically, LBR 1007-1 (c) shall apply. In addition, the Clerk shall reject a new petition filed with an application to pay filing fees in installments if any filing fees are owed from a previous case.

(d) Discharge of Debtor. A discharge may not be entered until all filing fees are paid in full.

(e) Confirmation of Plan. A plan under Chapter 12 or Chapter 13 may not be confirmed until all filing fees are paid in full.

(f) Electronic Refunds. The Clerk of the United States Bankruptcy Court, District of Puerto Rico has the authority to approve refunds for fees paid electronically for monies collected by or paid to the Court in error, such as duplicate charges or electronic system errors.

(1) Request for Refund. Claimants seeking a refund must promptly file an application with the supporting documentation generated from the Court's electronic case management system set forth below. The receipt for payment of fees, and the Notice(s) of Electronic Filing Refunds will be processed through the electronic credit card system. Refund checks will not be issued.

(2) Clerk Authorized Actions. Upon verification of the grounds set forth in the application, the Clerk is authorized to dismiss the case or adversary proceeding or strike the pleading when the fee charged resulted from the filing of a duplicate petition, adversary proceeding or pleading.

(3) Request for Clearance. A movant may request clearance of the "filing fee due" status in a case or proceeding in which the fee has not yet been paid by contacting the Finance Division.

(4) Denial of Refund. If a claimant's refund request is denied, the claimant may seek reconsideration of the request from the judge presiding over the case in which the subject document was filed by filing a motion to that effect.

(5) Repeated Mistakes. In the event that a particular attorney or law firm continues to make repeated mistakes when submitting fees and repeatedly requests refunds, the Court will consider remedial action and may issue an order to show cause as to why further requests for refunds should be considered.

Rule 1006-3

Reopening Fee

(a) Fees. Unless the reopening is to correct an administrative error or for actions related to the debtor's discharge, the fee for reopening a case must be paid with the motion requesting the reopening of the case. The fee is for filing the motion and is collected whether or not the motion is granted.

(b) Waiver/Deferral of Fee. The court may waive this fee under appropriate circumstances or may defer payment of the fee upon written request. Such request must be attached to the Motion to Reopen.

Rule 1007-1

Lists, Schedules and Statements; Time Limits; Notice of Intent to Dismiss; Notice in Chapter 11 Cases

(a) Certification of *Pro se* Debtor Required. All *pro se* debtors must complete a certification listing the names, addresses, and amounts paid to persons who assisted with the bankruptcy filing, at the time of the filing of the petition.

(b) Mailing Matrix. All cases filed through the electronic system must have the creditor's mailing matrix uploaded immediately upon filing. In cases filed by conventional means a mailing matrix must be filed with the petition in all voluntary cases upon filing. This matrix must contain the names and addresses (including zip codes) of all known creditors and holders of executory contracts.

(1) Involuntary Cases. For cases filed by conventional means, the mailing matrix and diskette must be filed within fifteen (15) days of the entry of order for relief. The debtor must prepare and file the mailing matrix and diskette, unless the court orders otherwise, *see* LBF A.

(2) Foreign Country Creditor or Party. In a bankruptcy case that includes creditors or parties in any foreign country, the debtor must supply the Clerk's office with envelopes with the correct address and postage, to ensure that the mailing reaches the addressees in the foreign country.

(c) Certificate of Credit Counseling and Debt Repayment Plan. The certificate of credit counseling and debt repayment plan shall be filed separately from the petition.

(d) Notice of Dismissal if Document Not Timely Filed (Lack of Prosecution). Upon filing the petition, the debtor will receive a "Notice of Deficient Filing and Notice of Possible Dismissal" indicating which documents are missing and giving the debtor two (2) business days to file the required documents. If, after the expiration of the stated time period, or any court authorized extension thereof, the debtor fails to timely file the required documents, the Clerk shall issue an order of dismissal without further notice. In the absence of a showing to the contrary, any such dismissal shall be presumed to be a willful failure within the meaning of 11 U.S.C. §109(g), with a 180-day bar to refiling a petition. *See* also LBR 1017-2.

(e) Documents subject to Two (2) Business Day Filing Deadline. The following documents as applicable to the case and chapter, are required to be filed with the Clerk within two (2) business days of the bankruptcy filing or will subject the case to the procedures set forth in subparagraph (d) above and LBR 1017-2:

- (1) Voluntary Petition;
- (2) Statement of Social Security Number(s) - Official Form B-21;
- (3) Corporate Resolution/Corporate Ownership Statement;
- (4) Fee Payment; or Application to Pay Filing Fees in Installments; or Application for Waiver of the chapter 7 filing fee;
- (5) Creditor Mailing Matrix (names and addresses) uploaded in the CM/ECF System;
- (6) Cover sheet for list of creditors and creditor matrix diskette if filed conventionally;
- (7) Chapter 11 List of Creditors holding 20 largest unsecured claims; and,
- (8) Notice to Individual Consumer Debtor - Official Form 201

(f) Payment Advices. Copies of all payment advices or other evidence of payment received within sixty (60) days before the date of the filing of the petition shall not be filed with the court unless ordered. These copies shall be provided by the debtor to the trustee and to any creditor who timely requests copies of the payment advices or other evidence of payment, at least seven (7) days before the time of the meeting of creditors conducted pursuant to 11 U.S.C. §341. To be considered timely, a creditors request must be received at least fifteen (15) days before the first date set for the meeting of creditors.

(g) Notification of Creditors in Chapter 11 Cases Scheduled as Disputed, Contingent, or Unliquidated. The debtor in each Chapter 11 case must serve LBF Form B on each creditor whose claim is listed on the schedules as disputed, contingent, or unliquidated, within fifteen (15) days after filing the schedules of liabilities, or within fifteen (15) days of adding those creditors to previously filed schedules. The notification must advise those creditors of their right to file proofs of claim and indicate that failure to do so shall prevent them from voting upon the plan or participating in any distribution thereunder. Debtor must file with the Clerk a certificate of service evidencing compliance with this LBR within ten (10) days of service.

Rule 1009-1

Amendments to Lists, Schedules, and Statements

(a) Procedure and Form. A voluntary petition, list, schedule statement, or other document filed to effect an amendment to a previously-filed document must clearly state in bold print that it is an amendment and must be accompanied by a statement of the purpose the amendment is meant to serve. The amendment must be underlined and in italics to identify the added or changed information. The amended document must be signed by the amending party, who must attach to the amended documents a signed affirmation relating to all the amended pages in the same form as the original documents.

(b) Notice and Service of Amendment. In each instance in which the debtor amends its

petition, lists, schedules, or statements, it must give notice to any appointed trustee, to the United States Trustee, and to any entity affected by the amendment, by serving upon them a copy of the amendment and the statement of purpose of the amendment. The debtor must file a certificate of service that indicates the parties served and the date and method of service.

(c) Amendments Adding an Omitted Creditor. If pre-petition creditors not previously included on the mailing matrix are added by amendments at any time after the first notice of the meeting of creditors, the following procedures apply:

- (1) The debtor must give notice of the amendment and statement of purpose together with a copy of the original Notice of § 341 Meeting of Creditors to the trustee, United States Trustee, and the added creditor;
- (2) In asset cases, notice is required informing the creditor of its right to file a Proof of Claim within ninety (90) days of service of the documents required by this LBR, or within the time set for previously scheduled creditors to file Proofs of Claim, whichever is later; or within such other time as allowed by Fed. R. Bankr. P. 9006(c) and ordered by the court; and
- (3) In a chapter 7 case, a notice informing the creditor of its right to file complaints under 11 U.S.C. §§ 523 and 727, and objections to the debtor's claim of exemptions, within sixty (60) days of service of the papers required by this LBR, or within the time set for previously scheduled creditors to file those complaints or objections, whichever is later.
- (4) The extensions of deadlines granted by this LBR apply only to those creditors added by amendment.
- (5) Creditors added after the § 341 meeting of creditors has commenced are entitled to reconvene the 341 meeting, upon request to the United States Trustee, unless the court orders otherwise.
- (6) If a creditor is added after the order of discharge is entered in an individual Chapter 7 case in which there is no distribution to creditors, the order of discharge is deemed to apply to the pre-petition debts owed to that creditor as of the later of:
 - (A) 60 days after the date the debtor provides evidence of service if the creditor has not filed complaints under 11 U.S.C. §§ 523 and 727; or,
 - (B) the date the last orders denying or dismissing those complaints become final.

Rule 1015-1

Joint Administration and Consolidation

(a) Specify Action. A motion filed for this purpose must specify whether the request is for joint administration or substantive consolidation of the cases.

(b) Joint Administration. A motion for joint administration is deemed to include all administrative activities of the case, unless the movant specifies that it will only apply to limited activity, and identifies that activity. Independent dockets will be maintained in each case.

(c) Substantive Consolidation. After a motion for substantive consolidation is granted, the lead case will be the oldest case filed and all other cases will be dismissed and closed, unless otherwise ordered by the court. All debtors of the consolidated cases will be added to the lead case.

(d) Service of Motion. A motion for consolidation of cases must be served on all parties requesting notice, all attorneys of record, any appointed trustee and the United States Trustee.

Rule 1017-2

Dismissal for Lack of Prosecution

(a) Want of Prosecution Defined. For purposes of Fed. R. Bankr. P. 1017, the term “want of prosecution” shall include, but is not limited to:

- (1) failure to file lists, schedules, and statements within the time allowed by Interim Fed. R. Bankr. P. 1007;
- (2) failure of a debtor that is a corporation to be represented by counsel within the time set by order of the court;
- (3) failure to pay any required filing fee in a timely fashion;
- (4) failure to prosecute in a timely and diligent manner the filing of a plan, disclosure statement, or other document or pleading, as required by the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, the Interim Federal Rules of Bankruptcy Procedure, these LBRs, or orders of the court;
- (5) failure of a party or counsel to appear at a hearing before the court, upon notice or order;

(6) failure of the debtor to appear at the initial § 341 meeting, or any continued meeting; and

(7) failure to abide by any court order requiring the filing of papers, or payment of fees, costs, or sanctions.

(b) Sua Sponte Action by the Court. The court may dismiss a case for lack of prosecution on its own motion – after notice to the debtor, the debtor’s attorney (if any), and all creditors, unless the debtor cures the deficiency in a timely fashion and/or the debtor or any other party in interest requests a hearing within fifteen (15) days of service of the notice of intent to dismiss. An exception to this subsection is the automatic dismissal as permitted by LBR 1007 (d) & (e).

Rule 1019-1

Conversion of Chapter 11, Chapter 12, or Chapter 13 Case to Chapter 7 Liquidation

(a) Content of Final Report and Account. The Final Report and Account required by Fed. R. Bankr. P. 1019(5) must include – in addition to the other information specified in the rule: (1) a statement of the total funds which passed through the Chapter 11, Chapter 12, or Chapter 13 estate; (2) a statement that all United States Trustee operating reports are available upon request; (3) an itemization of all disbursements since the last United States Trustee operating report; and (4) a statement of the balance on hand at the time of the conversion. If the debtor operated a business, the report must also include a statement listing all assets in the debtor’s possession at the time of conversion, including – but not limited to – inventory, fixtures, leases and executory contracts, and accounts receivable.

(b) Schedule of Unpaid Debts. The schedule of unpaid debts required by Fed. R. Bankr. P. 1019(5) must be accompanied by a mailing matrix conforming to the requirements of LBR 1007-1(b).

Rule 2002-1

Notice to Creditors and Other Parties in Interest

(a) Parties in Interest. In Chapter 7, 12 and Chapter 13 cases, parties in interest include, but are not necessarily limited to:

- (1) the United States Trustee;
- (2) debtor’s counsel (or debtor, if *pro se*);
- (3) the Chapter 7 or Chapter 13 trustee; and,

(4) any creditor or other party who has requested service or notice in the case.

(b) Chapter 11. In Chapter 11 cases, parties in interest include, but are not necessarily limited to:

- (1) the United States Trustee;
- (2) debtor's counsel (or debtor, if *pro se*);
- (3) the Chapter 11 trustee, if any and his/her counsel;
- (4) the chairperson of the creditors' committee, if any, and his/her counsel, and the chairperson and counsel of any other official committee approved by the court;
- (5) any party who has requested service or notice in the case; and
- (6) all creditors.

Rule 2002-2

Notice of Preferred Addresses Under 11 U.S.C. § 342(e) & (f) And National Creditor Register Service

(a) Notice. The filing of a notice of preferred address pursuant to 11 U.S.C. § 342(f) by a creditor directly with the entity that provides noticing services for the Bankruptcy Courts will constitute the filing of such a notice with the Court.

(b) Registration. Registration with the National Creditor Registration Service must be accomplished through the entity that provides noticing services for the Bankruptcy Courts. Forms and registration information is available at www.ncrsuscourts.com

(c) Conclusive Presumption. Any notice sent by the Court to a creditor's preferred address, in accordance with a notice of preferred address filed by a creditor or an interested party pursuant to 11 U.S.C. § 342(e) or § 342(f) or contained in a proof of claim filed with the Court, specifying a mailing address and designating a recipient, will be conclusively presumed to have been received by the creditor or interested party upon the mailing of any notice by the Court or its noticing agent(s) to the address specified in the notice of preferred address, notwithstanding 11 U.S.C. § 342(g)(1).

Rule 2003-1

Meeting of Creditors or Equity Security Holders

(a) Report of Action Taken. No later than four (4) days after the § 341 meeting, each

presiding officer at a meeting of creditors must file with the court a report of action taken, and must serve that report upon the United States Trustee. In chapter 7 cases, the Chapter 7 trustee must file a report of no distribution no later than sixty (60) days after the § 341 meeting, if applicable.

(b) Failure of Debtor to Appear at § 341 Meeting of Creditors. Failure of the debtor in a voluntary case to appear at a scheduled 11 U.S.C. § 341 meeting of creditors constitutes cause for dismissal. Upon the filing by the trustee or the United States Trustee of a Report of Nonappearance and Motion to Dismiss, an order of dismissal will be entered by the Clerk. Notice of the Motion to Dismiss shall only be provided to the debtor, debtor's counsel, trustee and the United States Trustee.

(c) Rescheduled Meeting of Creditors; Notice. When the debtor's case has been dismissed and the dismissal is subsequently set aside, or if a meeting of creditors is rescheduled upon request of the debtor, the debtor shall obtain another date for the meeting of creditors from the United States Trustee or from the Chapter 13 trustee in Chapter 13 cases, and the debtor shall give notice of the rescheduled meeting to the trustee, the United States Trustee, all creditors and all parties in interest and file a certificate of service.

Rule 2004-1

Examination

(a) Inapplicability to Adversary Proceedings and Contested Matters. The provisions for examination under this LBR are inapplicable to pending adversary proceedings and contested matters. The discovery provisions made applicable by Part VII of Federal Rules of Bankruptcy Procedure, and Fed. R. Bankr. P. 9014 govern discovery in connection with pending adversary proceedings and contested matters.

(b) Consultation Required. Counsel for the party moving for an examination under Fed. R. Bankr. P. 2004 must confer with counsel for the proposed examinee(s), or with the proposed examinee(s), if unrepresented, to arrange a mutually agreeable date, place, and time for the examination before filing a motion for examination. All motions for an examination must include either:

- (1) a statement that the conference has been held as required, and that all parties have agreed to the date, time, and place of the examination; or
- (2) a statement explaining why it was not possible for the conference to be held; or

(3) a verified statement that the movant has good reason to believe that the proposed examinee would absent himself or herself from the jurisdiction if notified of the request for examination; or

(4) a statement that the conference was held, but that no agreement could be reached by the parties, and that the motion is presented to the court for determination.

(c) Objections/Protective Orders. Any objection to a motion for a Rule 2004 examination must be made in the form of an objection and/or motion for protective order in accordance with Fed. R. Civ. P. 26(c), as adopted in Fed. R. Bankr. P. 7026. The motion/objection must state precisely the basis for the objection or protective order, as well as the nature and scope of the relief requested.

(d) Notice and Response Time.

(1) The party proposing the examination must give the entity to be examined and its counsel (if known), as well as all other affected parties, no less than thirteen (13) days written notice of a proposed examination, in accordance with LBR 9013(h)(1). The notice must apprise the party to be examined of the proposed scope of the examination and must list any documents requested to be presented at the examination.

(2) The notice must also contain the following language regarding the time to object or otherwise respond to the proposed examination:

Any party who objects to the examination shall serve and file an objection and/or motion for protective order with the U.S. Bankruptcy Court for the District of Puerto Rico within ten (10) days of service of this Motion for a Rule 2004 Examination, or within three (3) additional days if you were served by mail, pursuant to Fed. R. Bankr. P. 9006(f). If no objections or motions for protective order are timely filed, the court will grant the motion for examination by endorsement order.

(e) Stay of Examination. The timely filing of an objection and/or motion for protective order, as provided for in subdivisions (b) and (c) of this LBR, automatically stays the examination, and the entry of any order determining the motion for examination, until the court considers the objection or motion for protective order.

(f) Unopposed Motion for Rule 2004 Examination. If no response or objection is timely filed, the court will grant the motion for an examination under this LBR.

Rule 2014-1

Employment of Professional Persons

(a) Application and Statement. An application of a debtor (other than a Chapter 7 debtor), debtor in possession, estate representative, or committee to employ any professional person, including an attorney, accountant, appraiser, broker, auctioneer, consultant, or agent, must include all of the information required by Fed. R. Bankr. P. 2014(a). In addition, the application must include the curriculum vitae of the professional to be employed. In a Chapter 11 case, the trustee or debtor in possession must sign the application to employ an attorney. The application must be accompanied by a statement in which the professional to be employed (hereinafter the “professional”) makes the following disclosures under penalty of perjury, in accordance with subsection (b) of this LBR:

- (1) Neither I nor any member of my Firm holds or represents any interest adverse to the estate of the above-named debtor.
- (2) My connections and my Firm’s connections with the debtor, any creditor or other party in interest, their respective attorneys and accountants, the United States Trustee, or any person employed by the United States Trustee are as follows:

- (3) I am, and each member of my Firm is, a “disinterested person” as that term is defined in 11 U.S.C. § 101(14).
- (4) I have not agreed to share with any person, except members of my Firm, the compensation to be paid for the services rendered in this case, except as follows:

- (5) The terms of compensation agreed to are as follows: I have received a retainer in this case in the amount of \$_____, which sum, upon information and belief, was generated by the debtor from:

_____.
- (6) I will amend this statement immediately upon my learning that: (a)

any of the representations made herein are incorrect, or (b) there is any change of circumstance relating thereto.

(7) I have reviewed the provisions of LBR 2016-1.

(b) Clarifying Terms.

(1) Connections. For the purposes of 11 U.S.C. §101(14) and subsection (a)(2) of this LBR, the term “connections” includes, but is not limited to:

(A) the professional’s representation at any time of the debtor or any affiliate of the debtor, as that term is defined in 11 U.S.C. § 101(2), or of any insider of the debtor, as that term is defined in 11 U.S.C. § 101(31);

(B) the professional’s representation at any time of a creditor against the debtor, or any insider or affiliate of the debtor;

(C) the professional’s representation of a creditor on a regular basis, or in connection with a substantial matter;

(D) the professional’s representation or employment of or by another authorized professional, either specifically in connection with the case, or on a regular basis, or in connection with a substantial matter in another case; and

(E) a marital relationship or family affiliation to the third degree of consanguinity between the professional or the member of the professional’s Firm who will actually render services, and any party in interest (or officer, director, or shareholder of that party) or other professional authorized to be employed in the case.

(2) Source of Funds. For the purposes of subsection (a)(5) of this LBR, the professional must disclose how the funds paid were generated by the debtor – whether from operations, salary, wages, other income, or from a loan or capital contribution. If the source is a loan or capital contribution – other than an advance on a continuing line of credit – and the loan or capital contribution was made to the debtor within ninety (90) days prior to the filing of the petition, the professional must disclose the identity of the lender or investor/stockholder and the terms of repayment, as well as any claims by and between the debtor and the lender or investor/stockholder.

(c) Form of Statement. The statement accompanying the application to employ a professional person must be in the form of an affidavit, dated and signed under penalty of perjury by the person to be employed. Above such signature the affiant must include a sworn declaration that

states: “I declare (or certify, or verify, or state) under penalty of perjury that the foregoing is true and correct,” as provided in 28 U.S.C. § 1746.

(d) Certificate of Service. The application must include a certificate of service that indicates that the application and statement were transmitted to the United States Trustee.

(e) Effective Date. If the court approves an application for the employment of a professional person, the approval is deemed effective as of the date of the filing of the application. However, if the application is filed within fourteen (14) days of either the commencement of the case or the date the professional first rendered services – whichever is later – court approval is deemed effective on the date that the services were first rendered. The court will not grant otherwise retroactive approval, absent extraordinary circumstances.

Rule 2015 -2

Duties of Trustee or Debtor in Possession

(a) Chapter 11 Monthly Financial Reports. A Chapter 11 debtor in possession or trustee must file with the court a monthly financial report, which must be served on the United States Trustee and each member of any committee elected or appointed pursuant to the Bankruptcy Code. Each report is due on the twentieth (20) day of the subsequent month. Except as otherwise ordered by the court, the report must include the following:

- (1)** balance sheet;
- (2)** income statement;
- (3)** statement of cash receipts and disbursements;
- (4)** statement of accrued receivables. The statement must disclose amounts considered to be uncollectible;
- (5)** statement of post-petition accrued payables, including professional fees. The statement must list the name of each creditor, and the amounts owing and remaining unpaid for over thirty (30) days;
- (6)** tax disclosure statement. The statement must list post-petition taxes due or tax deposits required, the name of the taxing agency, the amount due, the date due, and an explanation for any failure to make the required payments or deposits;

(7) compensation statement. The statement must disclose the amount of compensation paid to all insiders, as defined in 11 U.S.C. § 101(31).

(b) Chapter 11 Post-confirmation Reports. If a Chapter 11 plan proponent has not filed an application for a final decree within three (3) months after confirmation of the plan, it must file and mail to the United States Trustee a post-confirmation report within three (3) months of the confirmation order, and every three (3) months thereafter until a final decree has been entered. The post-confirmation report must disclose the plan's progress toward consummation, and must include the following:

- (1) a summary, by class, of amounts distributed or property transferred to each recipient under the plan, and an explanation of the failure to make any distributions or transfers of property under the plan;
- (2) debtor's projections as to its continuing ability to comply with the terms of the plan;
- (3) a report of any pending or anticipated litigation, including the nature of each matter, the parties involved, and an estimated date when the matter will be resolved;
- (4) a description of any other factors that may materially affect the debtor's ability to consummate the plan;
- (5) an estimated date when the application for final decree will be filed with the court.

Rule 2016-1

Application for Compensation of Professionals

(a) Compensation. Any professional seeking interim or final compensation for services and reimbursement of expenses under 11 U.S.C. §§ 330, 331, 503(b)(2), 503(b)(4), or 506(b) must file an application for compensation and reimbursement. The application must conform generally with Fed. R. Bankr. P. 2016. It and any attachments must comply with the United States Trustee Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses, issued on January 30, 1996, reprinted at 28 C.F.R. Part 58, Appendix. The following rules also apply:

(1) Trustee Services. If the trustee is also serving as his/her own attorney, the trustee's attorney application must contain a certification that no compensation has been or will be sought for services as an attorney which are properly trustee services.

(2) Contingent Fee Matters. Time records must be kept on contingent fee matters.

(3) Travel Time. The court may allow professional travel time at one-half of the professional's normal hourly rate, unless otherwise justified. This is because time spent traveling is generally unproductive or, if productive, is rarely spent solely on the case for which the professional is traveling. Travel of one (1) hour or less round-trip is not compensable.

(4) Certification. Each application must contain a certification by the professional that:

(A) the professional has read the application;

(B) to the best of the professional's knowledge, information and belief, formed after reasonable inquiry, the compensation and reimbursement of expenses sought conforms with the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, the United States Trustee Guidelines, and these LBRs;

(C) the compensation and reimbursement of expenses requested are billed at rates no less favorable to the debtor/estate than those customarily employed by the applicant generally.

(b) Expenses. An applicant has the burden of establishing that its expenses are both actual and necessary. The following rules also apply:

(1) Photocopying. An applicant must identify the particular documents copied, the number of copies made, and the actual cost per copy – not to exceed 25 cents per page.

(2) Computerized Research. Computerized research is reimbursable at actual cost, without markup for handling or administrative charges.

(3) Messenger Service/Overnight Delivery. Messenger or overnight delivery services should only be used when the use of first-class mail is impractical. If reasonably incurred, reimbursement for these services will be allowed at actual cost. In-house messenger services are not reimbursable for more than the cost of comparable services outside the firm.

(4) Postage. Postage is reimbursable at actual cost.

(5) Long Distance Telephone Charges. Long distance telephone charges are reimbursable at actual cost.

(6) Facsimile Transmissions. Facsimile transmissions are reimbursable at actual cost, if reasonably incurred. For outgoing transmissions, the actual cost of the telephone charges are reimbursable. Facsimile transmissions received are reimbursable at actual cost – not to exceed 25 cents per page.

(7) Travel – Air transportation. Reimbursement for air travel is limited to the amount spent on full or coach fare, whichever is lower.

(8) Travel – Within Puerto Rico. Automobile travel within Puerto Rico is reimbursable at a rate to be published by the Clerk's office and based upon the mileage information available through the Puerto Rico Highway and Transportation Authority's website, www.dtop.gov.pr/act.

(9) Travel accommodations and meals. Reimbursement is allowed for reasonable hotel and meal expenses. Luxury accommodations are not reimbursable.

(10) Meals – Working. Working meals at restaurants or private clubs are generally not reimbursable. Reimbursement may be requested for working meals only when food is catered to the professional's office during a meeting with clients – such as a creditor's committee – to permit the meeting to continue through a normal meal period.

(11) Amenities. Charges for entertainment, alcoholic beverages, tobacco, newspapers, dry cleaning, etc., are generally not reimbursable.

(12) Miscellaneous fees. Filing fees, court reporter fees, witness fees, and service of process fees are reimbursable at actual cost.

(c) Sanctions For Non-compliance. The court may deny an application for compensation *sua sponte* if it does not comply with the requirements set forth in this LBR.

Rule 2090-1

Attorneys Authorized to Practice

(a) Generally. LDR 83.1 shall apply to all attorneys appearing before this court.

(b) Appearances before the Court. As provided for in LDR 77.2(b), attorneys admitted to the bar of the United States District Court for the District of Puerto Rico, may practice in this court.

(c) **Pro Hac Vice Admission.** Except as modified by LBR 9010-1(b), the provisions contained in LDR 83.1(f), apply to practice in this court. All attorneys seeking admission under this subsection, shall file with this court a copy of their application to the District Court and subsequent order, no later than the first appearance or the first document filed upon which the attorney's name appears.

Rule 3002-1

Filing of Claim or Interest

(a) **Service of Proof of Claim.** The claimant must serve a copy of the proof of claim, with all attachments, on the trustee (if any), counsel for debtor, or debtor if *pro se*, contemporaneously with the filing of the claim with the Clerk's office.

(b) **Estimated Proofs of Claim.** The following guidelines govern the filing of estimated proofs of claim. These guidelines apply to any "person," as defined in 11 U.S.C. § 101(41), and to any "governmental unit," as that term is defined in 11 U.S.C. 101(27).

(1) **Undue Delay.** All estimated proofs of claim must indicate why fixing or liquidating the same would unduly delay the administration of the estate.

(2) **Estimated Proof of Claim by a Governmental Unit.** A governmental unit filing an estimated claim for taxes must indicate if the tax claim is being estimated because the debtor failed to file tax returns for the period included in the estimated proof of claim, or whether the estimation is based on a proposed additional assessment made after review of a debtor's tax return. If the debtor filed tax returns, the governmental unit must indicate the basis for challenging the return, e.g., that the governmental unit has found a mathematical error or that it has reason to believe that the taxpayer's income was higher than reported. If a field or office audit or review was conducted, which gave rise to the estimated claim, the governmental unit must indicate this in the estimated proof of claim.

(3) **Calculation and Breakdown of Estimated Amounts.** All estimated proofs of claim must include a statement indicating how the amount listed in the estimated proof of claim was calculated or approximated, with a breakdown of the principal, interest, and late charges or penalties, if any, are included in the claim.

(c) **Chapter 7 No Asset Cases.** Claims shall not be filed in a Chapter 7 no asset case. The Clerk's office is authorized to reject the claim, when the claim is filed by conventional means.

(d) **Recovery of Assets.** If notice of insufficient assets to pay a dividend was given to creditors pursuant to Fed. R. Bankr. P. 2002(e), and subsequently the trustee notifies the court

that payment of a dividend appears possible, the Clerk shall notify the creditors of that fact and that they may file proofs of claim within ninety (90) days after the mailing of the notice. Governmental units may file proofs of claim within one hundred and eighty (180) days of the mailing of the notice.

Rule 3003-1

Chapter 11 Claims Bar Date

Proofs of claim in Chapter 11 cases must be filed: (a) on or before ninety (90) days from the date first set for the § 341 meeting of creditors; and, (b) for governmental units, within one hundred and eighty (180) days after the date of the order for relief, unless otherwise ordered by the court.

Rule 3007-1

Objections to Claims

(a) Content. A party who files an objection to the allowance of any proof of claim must state in the objection the factual and legal grounds for the objection with particularity. The party must also make a recommendation to the court as to whether the claim should be disallowed, or allowed in an amount or with a priority other than as filed.

(b) Procedures. The procedures for motion practice and contested matters set forth in Fed. R. Bankr. P. 9013 and 9014, and LBR 9013-1, govern objections to claims.

(c) Notice. An objection to claim must contain the following notice, either below the signature block of the objecting party, or in an otherwise conspicuous place within the pleading:

Within thirty (30) days after service as evidenced by the certification, and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if you were served by mail, any party against whom this paper has been served, or any other party to the action who objects to the relief sought herein, shall serve and file an objection or other appropriate response to this paper with the Clerk's office of the U.S. Bankruptcy Court for the District of Puerto Rico. If no objection or other response is timely filed within the time allowed herein, the objection will be deemed unopposed and will be granted unless: (1) the requested relief is forbidden by law; (2) the requested relief is against public policy; or (3) in the opinion of the court, the interest of justice requires otherwise. If you file a timely response, the court may – in its discretion – schedule a hearing.

(d) Requirement of Written Response. If a claimant contests an objection to claim, it must file with the Clerk a written response to the objection. The response must state with particularity why the proof of claim should be allowed, must contain any documentation in support of allowance of the proof of claim and must state why the objection to the proof of claim should be denied. A response to an objection to claim must be served on the objecting party and any other party entitled to receive notice of the response. A claimant who does not file a timely response to a properly served objection to claim is deemed to have agreed that the objection to claim may be granted. If a timely response is not filed, the court may grant the objection to claim without further notice or hearing.

Rule 3011-1

Unclaimed Funds

(a) Procedure for Deposit of Unclaimed Funds. All unclaimed funds collected by the court shall be immediately deposited into United States Treasury accounts in accordance with applicable Administrative Office regulations.

(b) Procedure for Payment of Unclaimed Funds.

(1) The court may not disburse unclaimed funds without a court order.

(2) The following documentation is required in order to obtain a court order for disbursement of unclaimed funds:

(A) Requirements for individuals. A motion to withdraw unclaimed funds shall be in the form of LBF C. Claimant must submit a photocopy of a valid photo identification, such as a driver's license or passport. The motion shall include the last four (4) digits of the claimant's social security number.

(B) Requirements for corporations. The corporation must be represented by a member of the bar of this court. In addition, if the claimant is a successor corporation, claimant shall provide documents establishing the chain of succession of the original corporate claimant as proof of entitlement to the funds. The motion shall also include the tax identification number.

(C) Requirements for the Representative of the Estate of a Deceased Claimant. The representative must comply with paragraph (A) above. Certified copies of all probate documents to substantiate the representative's right to act on behalf of the decedent's estate must be provided as proof of entitlement.

(D) Funds locators. The claimant must comply with paragraph (A) or (B) above. In addition, the claimant shall provide documentation establishing their authorization to act on behalf of claimant.

(3) Service of the Motion. A motion to withdraw unclaimed funds shall be filed and served on the debtor, debtor's attorney, the trustee, the United States Trustee, the United States Attorney and the creditor or payee, if not claimant, for whom the funds were deposited.

(4) Multiple Claims. Claimants requesting to withdraw unclaimed funds in multiple cases assigned to the same judge, shall file one consolidated motion containing all of the requests up to a maximum of ten (10) cases. The motion shall contain the name of the debtor(s), the case number, and the amount requested for each case, in addition to the other requirements of this LBR.

Rule 3015-2

Chapter 13 Plan Requirements and Confirmation

(a) Form of Plan; Inclusion of Related Motions: Plans shall be in the form of LBF D. Counsel shall complete all sections of the forms, and in those sections not applicable counsel shall enter an appropriate notation such as "None" or "Not Applicable." If applicable, and without prejudice to a debtor's right to file a stand-alone motion seeking the same relief, the plan shall include the following related motions:

(1) Motion for Determination of Value pursuant to 11 U.S.C. §506(a).

(2) Motion for Avoidance of Lien pursuant to 11 U.S.C. § 522(f) (Lien avoidance) under any other provision of the Bankruptcy Code must be by adversary proceeding and requires service of a summons and complaint.)

(3) Motion for Assumption or Rejection of Executory Contracts pursuant to 11 U.S.C. § 365.

(b) Special Notice to Secured Creditors Whose Collateral is to be Valued or Lien

Avoided Unless a stand-alone motion and appropriate notice is served on the affected creditor at the same time as the plan is filed with the Clerk and transmitted to creditors, the debtor shall serve on each creditor who is the subject of a motion for valuation under 11 U.S.C. §506(a) or an included motion for lien avoidance under 11 U.S.C. §522(f), a copy of the plan to which is attached a notice in the form approved by the Court. Service of the plan and special notice must be made in the manner provided for in Fed. R. Bankr. P. 7004.

(c) Filing of Original Chapter 13 Plan and Related Motions

(1) Requirement. The Chapter 13 Plan and Related Motions and any special notice to secured creditors required by this rule shall be filed with the petition or not later than fifteen (15) days after the commencement of the case if the case was originally filed under chapter 13, or fifteen (15) days after the order converting the case to chapter 13 from some other chapter.

(2) Proof of Service to include names and addresses of all parties served. The Chapter 13 Plan and Related Motions must contain proof of service setting forth the date and manner of service and the names and addresses of all parties to whom the plan was mailed or transmitted.

(3) Extension of Time to File Chapter 13 Plan and Related Motions

(a) A motion to extend the time to file a Chapter 13 Plan and Related Motions may be granted by the Clerk for an additional ten (10) days, if:

(i) the motion for extension has been filed before the initial due date has expired; and

(ii) notice of the motion has been given by the debtor to the trustee and all creditors.

(d) Distribution of Chapter 13 Plan and Related Motions. The debtor shall distribute a copy of the original Chapter 13 Plan and Related Motions to all creditors, the Chapter 13 trustee, and other parties in interest at or prior to the time it is filed with the court. Upon receipt of the confirmation date, time and location, the debtor shall serve on affected creditors the special notice required by paragraph (b) of this rule.

(e) Objections to Confirmation of Chapter 13 Plan or to Related Motions.

(1) Deadline for Filing. Any objection to confirmation of the Chapter 13 Plan or to the granting of any included Motion for Determination of Value, Motion for Lien Avoidance, or Motion to Assume or Reject Executory Contract or Unexpired Lease shall be filed not later than ten (10) days prior to the date set for the confirmation hearing. Any extension of the original objection period must be requested by motion.

(2) Service of Objection. The objecting party shall file the objection with the Court and serve the objections on the standing trustee, the debtor, and the debtor's attorney. The objection shall be accompanied by proof of service evidencing compliance with this requirement.

(3) Hearings on Objections . All timely filed objections shall be heard at the contested confirmation hearing to be scheduled by the court or by the Chapter 13 trustee (after the first confirmation hearing scheduled in the 341 Notice).

(f) Modified Chapter 13 Plan and Related Motions

(1) Procedure where no plan has been confirmed

(A) Time for Filing. Unless confirmation of a prior plan has been denied, a modified plan shall be filed ten (10) days prior to confirmation. If confirmation of a prior plan has been denied, a modified plan must be filed within the period stated in paragraph (h) of this rule unless the order denying confirmation states some other period.

(B) Distribution of Modified Chapter 13 Plan and Related Motions. The modified Chapter 13 Plan and Related Motions, and any special notice required by paragraph (b) of this rule, must be distributed and served in the same manner as the original plan. The special notice required by paragraph (b) of this rule need not be given, however, if an order has previously been entered granting the relief sought and the modified plan does not contain any provision inconsistent with the order previously entered.

(C) Objections to Confirmation of Modified Chapter 13 Plan and Related Motions. If a modified Chapter 13 Plan and Related Motions are filed, any objections must be filed not later than five (5) days prior to the date set for the confirmation hearing.

(D) Trustee's recommendations . The Chapter 13 trustee shall file a recommendation as to the plan to be confirmed no later than five (5) days prior to the date set for the confirmation hearing.

(E) Effect on Hearing Scheduled on Objection(s) to any Previously Filed Unconfirmed Plan. Once a modified plan and related motions have been filed by the debtor, all previously filed unconfirmed plans and related motions are deemed withdrawn.

(2) Procedure where plan has been confirmed.

(A) Where modification is requested by the trustee or a creditor. If modification of a confirmed plan is sought by the trustee or by a creditor, the modification must be requested by motion and give (twenty) 20 days notice

pursuant to Fed. R. Bankr. P. 2002(a)(5).

(B) Where modification is requested by the debtor. If modification of a confirmed plan is sought by the debtor, modification must be requested by filing and distributing a modified Chapter 13 Plan and Related Motions and by giving twenty (20) days notice pursuant to Fed. R. Bankr. P. 2002(a)(5).

(C) Objections to Confirmation of Modified Chapter 13 Plan. If a timely objection is filed, the court or the trustee will schedule a hearing. Absent a timely objection, the modified plan becomes the plan under 11 U.S.C. §1329(b)(2) and Fed. R. Bankr. P. 2002 (a)(5).

(g) Confirmation of Plan and Granting of Related Motions Without a Hearing. After the time for filing objections has passed and if no objection has been timely filed, the Court may enter an order confirming the plan and granting the relief sought in the related motions without holding a hearing, or the Court may direct that a hearing be held.

(h) Dismissal of Case upon Denial of Confirmation. If the Court denies confirmation of the debtor's original or subsequently modified Chapter 13 Plan and Related Motions, unless the Court has entered an order previously confirming a plan, the Court may issue an order dismissing the Chapter 13 case unless, within eleven (11) days after denial of confirmation:

- (1) the debtor files a new Modified Chapter 13 Plan and Related Motions;
- (2) the debtor converts or moves to convert the case to another chapter of the Bankruptcy Code;
- (3) the debtor files a motion for relief from judgment or order, or appeals the denial of confirmation; or
- (4) the Court otherwise orders.

(i) Full Force and Effect. An order previously entered by the Court confirming a Chapter 13 Plan shall remain in full force and effect if a subsequently modified Chapter 13 Plan is denied confirmation by the Court.

(j) Completion of Plan. Upon completion of the debtor(s') confirmed plan and in compliance with 11 U.S.C. § 1328(a), the Chapter 13 Trustee's Final Report shall clearly state either:

- (1) that there were no domestic support obligations due to be paid by the debtor; or,

(2) that there were domestic support obligations due to be paid by the debtor and those obligations are current; or,

(3) that there were domestic support obligations owed by the debtor, that the trustee is unable to determine if they are current and the debtor has not applied for a waiver under this statute; and,

(4) If the trustee is unable to determine if these obligations are current, the Court shall issue a Notice of Intent to Close the Case Without a Discharge unless, within ten (10) days, the debtor files documentation with the Chapter 13 standing trustee that all domestic obligations are current and the Chapter 13 trustee so notifies the Court.

Rule 3016-1

Report of Appointed Chapter 11 Trustee

A Chapter 11 trustee must file a report, within sixty (60) days of appointment, or such other date as the court may direct, addressing:

(a) whether a plan can reasonably be formulated, and if not, the reasons why the trustee believes a plan cannot be formulated; or

(b) a recommendation that the case be converted to another chapter or dismissed.

Rule 3016-2

Modification or Amendments to Filed Disclosure Statement and/or Plan

Any amendments to a Chapter 11 plan and/or disclosure statement must be incorporated into the original of those documents. The revised document must be filed with the court in its entirety identified as the “First, Second, (etc.) Amended Disclosure Statement and/or Plan.” All amendments must be highlighted by underlining, bold type, or other conspicuous means, to identify the amendment to the originally filed document. The proponent must serve the document(s) on the United States Trustee and on any other party who requests a copy.

Rule 3018-2

Chapter 11 Confirmation - Requirements under 11 U.S.C. §1129

(a) **Requirements.** For the court to confirm a plan under Chapter 11, the proponent of a plan

must file with the court the 'Statement under 11 U.S.C. § 1129' which must substantially conform with LBF E.

(1) At least seven (7) working days prior to the hearing on confirmation the plan proponent must file a statement regarding the requirements of 1129(a) and the list of outstanding pre-petition tax claims, other priority claims and expenses of administration; and

(2) At least seven (7) working days before the hearing on confirmation, the plan proponent must file the list of acceptances and rejections, and the computation of acceptances and rejections. If a case has more than one hundred (100) potential voting parties, the proponent shall contact the Clerk's office regarding the time frame for filing the above mentioned items.

(b) Proof of Service. The plan proponent shall file the 1129 Statement with the Clerk's office and serve notice of such filing along with a copy of the 1129 statement that shows the date of filing upon the United States Trustee and all parties who have filed objections to confirmation, at least five (5) business days prior to the hearing on confirmation.

Rule 3019-1

Amendments to Chapter 11 Plans After Acceptance But Prior to Confirmation

If a plan proponent seeks to amend a Chapter 11 plan after creditors acceptance but prior to confirmation, it must comply with LBR 3016-2.

Rule 3022-1

Final Report/Decree – Chapter 11

(a) Filing of Application for Final Decree. A plan proponent in a Chapter 11 case has the continuing post-confirmation duty of preparing and prosecuting the application for a final decree closing the case. The application must be filed within 120 days of the confirmation of the plan, unless otherwise specified in the order of confirmation. If the application is not filed within the afore-specified time period, the plan proponent must comply with LBR 2015-2(b). At the time of confirmation, the compensation allowed to the attorney for the plan proponent includes compensation for time estimated to be required for performance of these duties. If the attorney fails to perform these duties in a timely manner, the court may order the refund of a portion of the fees so allowed. The case is deemed fully administered at the point of substantial consummation of the plan.

(b) Form of Application for Final Decree. The application for a final decree closing a Chapter 11 case must contain, at a minimum, the following statements:

- (1) that the plan of reorganization has been substantially consummated in accordance with the plan, the order of confirmation, and any orders of the court subsequent to confirmation;
- (2) that the debtor or trustee has paid all administrative expenses – including court-authorized professional compensation and costs – unless otherwise agreed in writing by the parties or unless otherwise provided for in the confirmed plan, as evidenced by an attached “Exhibit A” listing the names, addresses, and amounts paid to each of the recipients;
- (3) that the debtor or trustee has commenced making the distributions prescribed by the plan, as evidenced by an attached “Exhibit B,” listing the names, addresses, and amounts paid to each of the recipients;
- (4) that all remaining distributions prescribed by the plan will be made in accordance thereto, as evidenced by an attached “Exhibit C,” containing the names, addresses, and amounts to be paid to each of the recipients; and
- (5) if applicable, that distributions have not been made to recipients set forth in an attached “Exhibit D,” listing the names, addresses, and amounts tendered but returned, and the reasons why payments have not been made, despite reasonable attempts.

(c) Objections to Application for Final Decree. Any party in interest, including the United States Trustee, may object to any application for a final decree.

(d) Statistical Report. Together with the application for final decree, the debtor or trustee must file a completed Bankruptcy Closing Report – as required by the Administrative Office of the United States Courts. The form for this report may be obtained from the Clerk’s office. The figures set forth in this report must correspond with the figures set forth in the Application for Final Decree.

Rule 3070-1

Chapter 13 - Payments

(a) Filing Fees Payable to Clerk. The trustee shall pay all filing fees due the Clerk out of estate funds before returning any funds to the debtor. If pending dismissal, the funds on hand

are not sufficient to pay all administrative expenses, the trustee shall pay to the Clerk the pro rata portion of the fees due.

(b) Debtor's Failure to Commence Payments in Chapter 13 Case. Each Chapter 13 debtor shall commence payments proposed by the plan within thirty (30) days after the plan is filed unless the court has set some different time. If payments are not received as required, the trustee shall file a motion to dismiss or convert.

(c) Service. Service of the motion to dismiss or convert shall be limited to the debtor, debtor's attorney, the United States Trustee and all parties in interest who have filed a notice of appearance in the case.

Rule 4001-1

Relief from Automatic Stay

(a) Motion. A party seeking relief from the automatic stay provided by 11 U.S.C. § 362(a) must file a motion in accordance with Fed. R. Bankr. P. 9014, specifically setting forth the basis for the relief requested. Relief is limited to termination, modification or conditioning of the automatic stay. A motion for relief from stay must not be combined with a request for any other type of relief unless so authorized by the court, except that the movant may request adequate protection as alternative relief.

(b) Affidavit of Military Service Required. At the time of the filing of a motion for relief from stay in accordance with Fed. R. Bankr. P. 4001, and motions for relief from co-debtor stay in accordance with Fed. R. Bankr. P. 9014, movant must file an affidavit with the court which (a) states whether or not the respondent is in military service and shows necessary facts to support the affidavit, or (b) if movant is unable to determine whether or not the respondent is in military service, states that movant is unable to so determine. The court will not enter any default orders lifting the stay if a movant does not supply the required affidavit of military service. If the court is unable to ascertain a respondent's military status from the presented affidavit, it may require movant to file a bond before entering any default order lifting the stay.

(c) Service. Movant must serve both the motion and a notice that substantially conforms to LBF F within three (3) days of issuance of the notice. It must file a certificate of service, as provided on the bottom of the reverse side of the notice, within five (5) days of effecting service. The court may deny the motion for relief from stay and remove the matter from the court's calendar, if movant fails to serve the notice within the three (3) day period prescribed herein. All documents filed pursuant to this LBR must be served on the following parties:

- (1) the debtor;
- (2) debtor's counsel;
- (3) the trustee, if one has been appointed;
- (4) any committee elected pursuant to § 705 or appointed pursuant 11 U.S.C. § 1102;
- (5) all parties with liens of record, or any other party known to the movant claiming an interest in the property;
- (6) parties requesting notice; and
- (7) The United States Trustee in a Chapter 11 case.

(d) Relief from Stay of Act Against Property. If movant seeks relief with respect to a stay of an act against property under 11 U.S.C. § 362(d)(1) or (d)(2), the motion must be accompanied by the following supporting documents:

- (1) true copies of all notes, bonds, mortgages, security agreements, financing statements, assignments, and any other document on which the movant will rely at the hearing;
- (2) a report of any appraiser whose testimony is to be presented at the hearing;
- (3) a statement of amount due, including a breakdown in the following categories:
 - (A) unpaid principal;
 - (B) accrued interest, from and to a specific date;
 - (C) late charges, from and to a specific date;
 - (D) attorney's fees;
 - (E) advances for taxes, insurance, and like concepts;
 - (F) unearned interest;
 - (G) any other charges; and

(H) a per diem interest factor.

(e) **Response.** Respondent must file an answer to the motion for relief from stay within eleven (11) days after service of the notice prescribed in subsection (c) of this LBR. The court may enter the order lifting stay for the moving party and take the matter off the court's calendar if respondent does not file a timely answer, provided that movant has filed the certificate of service prescribed in subsection (c) of this LBR.

(f) **Hearing.** The notice prescribed in subsection (c) of this LBR must set forth a specific date for the preliminary hearing on the motion for relief from stay. A hearing will be held on the date indicated in the notice if movant has timely filed the certificate of service and respondent has filed a timely response.

(g) **Supporting Documents – Respondent.** At least three (3) days prior to the hearing, respondent must file with the court and serve upon movant – or his attorney if so represented – a report of any appraiser whose testimony is to be presented at the hearing, as well as a copy of any other document to be used at the hearing.

(h) **Attorney Conference – Contested Motions.** If the motion for relief from stay is contested, counsel for the parties must confer with respect to the issues raised in the motion, in order to determine whether a consent order may be entered and/or to stipulate to relevant facts about the value of the property and to the extent and validity of any security agreement.

(i) **Relief from Co-debtor Stay in Chapter 13 Cases.** A motion for relief from a stay of action against a codebtor in a Chapter 13 case is a contested matter and is governed by Fed. R. Bankr. P. 9014, 11 U.S.C. §1301 and these LBRs. The motion shall clearly state in the caption of the motion the subsection of 11 U.S.C. §1301 under which the party is proceeding.

Rule 4001-2

Use of Cash Collateral and Obtaining Credit

(a) **Contents of Motion.** A motion for use of cash collateral or for authority to obtain credit, or a stipulation relating to the same, must set forth the following:

- (1) the total dollar amount of the request;
- (2) the specific uses to which the funds will be put;
- (3) the debtor's proposed budget for the use of the funds;

- (4) the amount of debt owed to any creditor claiming an interest in the collateral;
- (5) the value of the collateral that secures the creditor's asserted interest; and
- (6) any proposal for providing adequate protection; and,
- (7) carve-outs for United States Trustee and professional fees.

(b) Service. A motion for use of cash collateral or for authority to obtain credit, or a stipulation relating to the same, must be served upon the following parties:

- (1) all creditors asserting an interest in the cash collateral, and, if known, their attorneys;
- (2) any taxing authority having a claim against the debtor;
- (3) the debtor's twenty (20) largest unsecured creditors;
- (4) any official committee appointed and serving in the case under 11 U.S.C. § 1102;
- (5) the United States Trustee; and
- (6) any party that has requested service of all pleadings and notices in the case.

(c) Emergency Motion Requirements. If a debtor files an emergency ex-parte application for an order allowing the interim use of cash collateral, it must present by affidavit the following information:

- (1) the names and addresses of all creditors holding a secured interest in the cash collateral, and – if known – their attorneys;
- (2) the efforts made to contact those secured creditors and any appointed committee or – if no committee has been appointed – the twenty (20) largest unsecured creditors, regarding the application for the use of cash collateral;
- (3) the nature of the emergency that requires an ex-parte order;
- (4) the total dollar amount requested to be authorized; and
- (5) a description of the adequate protection that will be provided to the secured creditors.

Rule 4001-4

Automatic Stay of Eviction Proceedings in Which Lessor has Obtained Judgment for Possession Prior to Date of Filing

Certificate of Intent to Cure Default & Rent Deposit. Certificates of Intent to Cure Default & Rent Deposit shall include a copy of the judgment for possession resulting from the eviction action, as well as the landlord's name, address and telephone number, unless this information is contained in the judgment. This certificate must be filed as a separate document from the petition.

Rule 4001-5

Continuation and Imposition of the Automatic Stay

(a) Content of Motion. Any motion filed by a party in interest pursuant to §362(c)(3)(B) or §362(c)(4)(B) shall contain all of the following:

(1) Case Information. Identify the prior case filed by the debtor within the preceding year and its disposition and shall also state whether:

(A) the later filed case is a Chapter 11 or 13 case that is being refiled after dismissal under 11 U.S.C. §707(b);

(B) if any motion for relief from the stay was pending; and/or,

(C) if any motion had been resolved by terminating, conditioning, or limiting the stay, in the prior case at the time of dismissal.

(2) Extent of Stay. Explain the extent to which the party in interest wishes the automatic stay to be continued, including the length of the proposed continuation and the parties affected (i.e. all creditors or only particular creditors).

(3) Grounds for Relief. Indicate the grounds for the relief requested.

(b) Time for Filing. For a continuation of the automatic stay, the motion should be filed as a separate document at the time of the filing of the petition, or three (3) days thereafter in order to allow sufficient time for a hearing on notice, before the thirtieth (30th) day after the filing of the case. For an imposition of the automatic stay, the motion should be filed within thirty (30) days from filing the petition.

(c) Notice. Service of the motion for continuation or imposition of the automatic stay shall be made to all creditors and parties in interest within three (3) days from the filing of the motion. A certificate of service must be filed within five (5) days. If the certificate is not timely filed, the court may deny the motion for failure to provide notice. The motion shall allow eleven (11) days from service to file an answer, informing that if no timely objections are filed, an order may be entered granting the relief requested in the motion and continuing the automatic stay, or for an imposition motion the court may order the stay to take effect as requested.

(d) Hearing on the Motion. Immediately after the motion for continuation of the automatic stay is filed, the Clerk shall schedule a hearing to be held within thirty (30) days from the filing of the petition. The hearing may be vacated, if no answer is filed in the eleven (11) days provided to the parties. If a motion for imposition of the automatic stay is properly noticed and an opposition is filed, the Clerk shall schedule a hearing and give immediate notice to any and all creditors and parties in interest.

Rule 4002-1

Duties of Debtor

In addition to any other duties imposed upon the debtor or its counsel under the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, these LBRs, or any other applicable law, the debtor has the following duties:

(a) Fiduciaries. Debtor and debtor's officers and agents – if any – must hold and manage debtor's assets as fiduciaries for the estate in strict compliance with orders of the court and 11 U.S.C. §§ 363 and 1108.

(b) Significant Depletion. Debtor must take all reasonably necessary steps to prevent any significant depletion of the assets of the estate during the pendency of the case and must immediately advise the court of any significant depletion or anticipated depletion of the assets of the estate.

(c) Best Interest of Creditors. If – at any time during the pendency of the case – the debtor becomes aware of facts which indicate that the continued operation of its business is not in the best interest of the creditors or the estate, the debtor and/or counsel must immediately advise the court.

(d) Persons to Act When Debtor is not a Natural Person. The natural persons occupying the following positions shall perform all acts required to be performed by the debtor and shall attend on behalf of the debtor any examinations, meetings or hearings unless the court orders otherwise.

(1) If the debtor is a corporation, the person serving as its chief executive officer (the person occupying the position of president is presumed to be the chief executive officer).

(2) If the debtor is a partnership, each of the general partners.

(3) If any corporate or partnership debtor deems the persons designated above inappropriate, a motion shall be made consistent with LBR 9013-1 for relief from this rule and for the designation of some other or additional natural person or persons.

(4) No later than fifteen (15) days after entry of the order for relief, the natural person or persons who will perform acts, required to be performed by the debtor, shall be identified by name, title, and address.

Rule 4002-3

Federal Tax Returns

(a) Request for Copy of Debtor's Post Tax Information. Parties in interest who require the Debtor to file tax information with the Court must file a Request for Debtor to File Post Petition Tax Information using either LBF G.1 or G.2 as applicable. The request must include a statement qualifying the movant as a party in interest, and must be served on the debtor, debtor's attorney, trustee and United States Trustee.

(b) Motion for Access to Tax Information. Pursuant to 11 U.S.C. § 521(g)(2), parties in interest who wish to inspect and copy Debtor's tax returns must file a Motion for Access to Tax Information using either LBF H.1 or H.2 as applicable. The motion must include a statement qualifying the movant as a party in interest, the reason the information cannot be obtained from any other source, and the method by which the movant will access the information. The motion must be served on the debtor, debtor's attorney, trustee and United States Trustee.

(c) Personal Data Identifiers. Pursuant to LBR 5005-1, the debtor is solely responsible for redacting personal identifiers from tax information filed with the Court. Tax information filed with the Court will be subject to restricted access unless the Court orders otherwise.

(d) Confidentiality Regarding Tax Information. The movant is advised that the tax information obtained is confidential and secondary dissemination of the information to parties other than the movant's

attorney is prohibited. The movant's attorney is identically restricted. Any improper use, disclosure or dissemination of the tax information may result in the imposition of sanctions.

(e) Pre-Petition Tax Information. Pre-petition tax information should not be filed with the Court, but should be forwarded directly to the trustee pursuant to 11 U.S.C. § 521(e)(2)(A).

Rule 4003-2

Lien Avoidance of Exempt Property

(a) Contents Required. Any motion to avoid a lien pursuant to 11 U.S.C. § 522(f) must include the following:

- (1) the claimed value of the property with respect to which relief is requested;
- (2) the name, address, and telephone number of each lienholder, and, if known, lienholder's attorney, listed in their order of priority; and
- (3) the amount of each lienholder's claim.

(b) Service. A party who files a motion to avoid a lien must serve via certified mail a copy of the motion upon the case trustee, the United States Trustee, each lienholder, and, if known, the lienholders' attorneys. The moving party must file with the court a certificate of service in accordance with LBR 9013-3.

(c) Notice. Motions to avoid a lien under 11 U.S.C. § 522(f) must include the following notice:

NOTICE OF MOTION TO AVOID LIEN

Within twenty (20) days after service as evidenced by the certification, any party against whom this motion to avoid lien under 11 U.S.C. § 522(f) has been served, must file an objection or other appropriate response thereto with the Clerk's office of the United States Bankruptcy Court for the District of Puerto Rico. If no objection or other response is timely filed within the time allowed herein, the motion will be deemed unopposed and will be granted unless: (1) the requested relief is forbidden by law; (2) the requested relief is against public policy; or (3) in the opinion of the court, the interest of justice requires otherwise.

Rule 4008-1

Reaffirmation Agreements

(a) Compliance with Statute. A reaffirmation agreement filed with the court must comply with 11 U.S.C. § 524(c) and (d), Fed. R. Bankr. P. 4008, and this LBR. If it does not so comply, it is invalid and unenforceable.

(b) Hearing. Fed. R. Bankr. P. 9011 applies to an attorney's declaration under 11 U.S.C. § 524(d). If a reaffirmation agreement does not contain an attorney declaration pursuant to §524(d), the court will hold a hearing on approval of reaffirmation agreement. The court may *sua sponte* schedule a hearing on approval of reaffirmation agreement.

(c) Form. All reaffirmation agreements filed with the court must use AO Form B240.

Rule 5001-1

Court Administration

The courtrooms of the United States Bankruptcy Court are solely for trials, hearings, and other court business. The courtrooms will not be utilized for any other purpose unless approved by one of the Bankruptcy Judges.

Rule 5001-2

Clerk's Office – Location/Hours

(a) Filing Hours. The Clerk's office will accept filings made by conventional means Monday through Friday between the hours of 8:00 A.M. and 4:00 P.M.

(b) Drop Box Facilities. Documents may be filed in the drop box located at the front entrance of the U.S. Post Office and Courthouse Building, 300 Recinto Sur, Old San Juan, Puerto Rico, and any other location authorized by the Court. Documents placed in the box during building hours will be filed and stamped with that day's date. Access to the drop box is during normal building hours, Monday through Friday, except on official holidays.

(1) Drop Box Filing Procedures. The following procedures are applicable to the filing of documents in the drop box of the Bankruptcy court:

(A) The drop box is for the exclusive use of the U.S. Bankruptcy Court;

(B) Any type of document may be filed in the drop box, except for emergency

matters (such as temporary restraining orders), adversary proceedings, new petitions, motions under 11 U.S.C. § 362, and/or documents in cases set for hearing within the following three (3) business days, which must be taken directly to the Clerk's office for filing.

(C) All documents must be date/time stamped and placed in an envelope before depositing;

(D) The payment of filing fees for documents filed in the drop box must be made by check or money order payable to "Clerk, U.S. Bankruptcy Court," subject to the terms specified in LBR 5079-1. Cash may not be deposited in the drop box.

(c) Special Filings. Any party needing to file documents with the Clerk outside of the regular filing hours indicated above must make advance arrangements for the late filing with the Clerk or the chief deputy Clerk.

(d) Clerk's Mailing Address & Telephone. Any document mailed to the Clerk's office shall be sent to the following address:

United States Bankruptcy Court for the District of Puerto Rico
U.S. Post Office & Courthouse Building
300 Recinto Sur Street
Suite 109
San Juan, Puerto Rico 00901
Telephone Number: (787) 977-6000

Rule 5003-1

Clerk , General Authority

The Clerk and the employees of the Clerk's office desire to be of help to litigants and attorneys. However, interpreting the rules of procedure and giving legal advice are not permitted functions. Notice is hereby given to litigants and attorneys that the Clerk and the Clerk's employees are not responsible for information respecting rules or law.

(a) Request for Search of Court Records. A search of the court records and/or a certification of information in the official record will be made only upon written request and upon prior payment of the applicable search fee. *See* Bankruptcy Court Miscellaneous Fee Schedule, issued in accordance with 28 U.S.C. § 1930(b).

(b) Court Papers, Review and Removal Of.

(1) Public Access. A person may review at the Clerk's office, filings that have not been sealed by the court. A person may also access the Electronic Filing System at the

court's Internet site <http://pacer.prb.uscourts.gov> by obtaining a PACER log-in and password. A person who has PACER access may retrieve docket sheets and documents.

(2) Hours for Public Access. The public will have electronic access in the Clerk's office for viewing documents and docket entries in the System during regular business hours, Monday through Friday.

(3) Review Procedures. Court files and other public records may be reviewed by the public during the official business hours of the Clerk's office. Any person that requests to review a physical file must record in the Clerk's office their name, telephone number, case number(s) of the file(s) reviewed, and the date and time that the files were taken out and returned. Review of files is limited to the Examination Room of the Clerk's office and all files must be returned in their original condition. Files may be photocopied upon request to the Clerk's office. Failure to abide by this LBR may result in the suspension of the privilege to review files.

(4) Removal Not Allowed. Court files may not be removed from the Clerk's office for any reason without prior court authorization.

Rule 5005-1

Filing of Papers

(a) Discovery Materials Must Not Be Filed. Discovery material – including notices of deposition, transcripts of depositions, interrogatories, answers to interrogatories, requests for production or inspection, and responses to those requests – should not be filed with the court. If any discovery material is needed in connection with a pretrial matter, the relevant portions thereof should be submitted to the court as an exhibit to a motion or response thereto. Any discovery material needed at trial should be introduced as provided in the Federal Rules of Civil Procedure, the Federal Rules of Evidence, and the Federal Rules of Bankruptcy Procedure.

(b) Judicial Conference Policy Regarding Public Access to Electronic Case Files. In compliance with the policy of the Judicial Conference of the United States, and the E-Government Act of 2002, and in order to promote electronic access to case files while also promoting personal privacy and other legitimate interests, parties shall refrain from including, or shall partially redact where inclusion is necessary, the following personal data identifiers from all documents and pleadings filed with the court, including exhibits thereto, whether filed electronically or in paper, unless otherwise ordered by the court or required by statute, the Federal Rules of Bankruptcy Procedure or the Official Bankruptcy Forms.

(1) Social Security Numbers. If an individual's social security number must be included in a pleading, only the last four digits of that number should be used.

(2) Names of Minor Children. If the involvement of a minor child must be mentioned, only the initials of that child should be used. On schedule I of Official Bankruptcy Form 6, list relationship and age of the debtor's dependents (e.g., son, age 6).

(3) Dates of Birth. If an individual's date of birth must be included in a pleading, only the year should be used. On schedule I of Official Bankruptcy Form 6, list the age of each of the debtor's dependents.

(4) Financial Account Numbers. If financial account numbers are relevant, only the last four digits of these numbers should be used. On schedules D, E, and F of Official Bankruptcy Form 6, debtors, if they chose, may include their full account numbers to assist the trustee and creditors.

Rule 5005-2

Virtual Documents

The Clerk of the Bankruptcy court is authorized to designate specific types of pre-approved docket entries that, upon execution, will constitute the official record without reference to any other documentation.

Rule 5005-4

Electronic Filing

(a) Acceptance of Electronically Filed Pleadings. The Court will accept for filing documents submitted, signed, or verified by electronic means that are consistent with technical standards that the Judicial Conference of the United States may establish and that comply with the "Administrative General Order Establishing Procedures for Filing, Signing, Maintaining, and Verifying Pleadings and Other Documents in the Electronic Case Filing System (ECF)" established by the Bankruptcy Court for its Case Management/Electronic Case Filing System, which is referred to as the "CM/ECF System."

(b) Waiver of Notice and Service. Registration with the Court as a filing user of the CM/ECF system will constitute: (1) waiver of the right to receive notice by first class or certified mail and consent to receive notice electronically; and (2) waiver of the right to service by personal service, first class or certified mail and consent to electronic service, except with regard to service of a summons and complaint under Fed. R. Bankr. P. 7004. Waiver of service and notice by first class or certified mail applies to notice of the entry of an order or judgment under Fed. R. Bankr. P. 9022.

(c) Service of Documents by Electronic Means. Each Filing User of the CM/ECF system

who electronically files a pleading or other document will automatically receive a “Notice of Electronic Filing” generated by the System and this Notice of Electronic Filing will automatically be transmitted by the System to all parties who are registered users of the System. Electronic transmission by the Court of the “Notice of Electronic Filing” generated by the CM/ECF System will constitute service or notice of the filed document. Parties not deemed to have consented to electronic notice or service are entitled to receive a paper copy of any electronically filed pleading or other document, and service or notice by the Filing User must be made in accordance with the Federal Rules of Bankruptcy Procedure and these LBRs.

(d) Official Court Record. The Case Management/Electronic Case Filing System (CM/ECF) shall constitute the official Court record in electronic form. The electronic filing of a pleading or other paper in accordance with the CM/ECF System procedures, or the conventional filing of a document which is subsequently imaged by the Court and placed into the System, shall constitute entry of that pleading or other papers on the docket kept by the Clerk pursuant to Fed. R. Bankr. P. 5003. The Court will not maintain paper with the following exceptions:

(1) Documents filed under seal.

(2) *Pro se* debtors’ petitions, lists, schedules, statements, amendments, pleadings, affidavits, and other documents which contain the signature of a *pro se* debtor.

(e) Clerk’s Authority. The Clerk may accept for filing documents submitted, signed, verified, or served by electronic means that are consistent with the technical standards, if any, that the Judicial Conference of the United States establishes, and that comply with the administrative procedures established by the Bankruptcy Court. The electronic filing procedures may be updated by this court as needed. The Clerk is authorized to alter these procedures from time to time as circumstances require.

Rule 5010-1

Reopening Cases - Notice and Service

A motion to reopen a case shall give twenty (20) days notice to all parties in interest. The motion shall be served upon the United States Trustee, the previously appointed trustee and any party being added, if any, as a creditor or party in interest in the case. The motion shall be accompanied by the appropriate fee to reopen the case and a certificate of service (*See* LBR 1006-3).

Rule 5011-1

Withdrawal of Reference

(a) Filing of motion. A motion for withdrawal of reference must be filed with the Clerk of the Bankruptcy Court, must indicate that the filer seeks relief from the United States District Court, and must contain the required response time language specified in LBR 9013-1(h). The motion must be accompanied by a properly completed United States District Court cover sheet, the prescribed filing fee, and a certificate of service.

(b) Stay. The filing of a motion to withdraw reference does not stay proceedings in the Bankruptcy Court. The procedures relating to stay shall be those set forth in Fed. R. Bankr. P. 5011.

(c) Transmittal to the U.S. District Court. Upon expiration of the objection period, the Clerk will transmit the motion and any responses or objections thereto to the U.S. District Court. Counsel are responsible for advising the Clerk of any additional documents for transmittal with the motion to withdraw, and are required to make and submit all necessary copies thereof.

(d) Documents Filed after transmittal of the record to the District Court. After transmittal of the record to the District Court, any further pleadings pertaining to the Withdrawal of Reference must be filed with the Clerk of the U.S. District Court. All documents relating to other aspects of the bankruptcy case or proceeding shall be filed in the normal manner with the Clerk of the Bankruptcy Court.

Rule 5012

Communication and Cooperation With Foreign Courts and Foreign Representatives [Reserved]

Rule 5071-1

Continuances

(a) Written Request. All requests for continuance of matters set for hearing or trial must:

- (1) be filed in the case five (5) days prior to the hearing;
- (2) set forth the reason(s) for the request; and

(3) be served upon opposing counsel in such manner as will ensure actual receipt prior to the scheduled hearing date.

(b) Oral Request. Absent a filed request, all interested parties must appear at the scheduled hearing and, if necessary, make an oral request for continuance at that time.

(c) Court Authorization Required. Employees of the Clerk's office and chamber's staff are not authorized to grant continuances.

Rule 5072-1

Courtroom Decorum

(a) Announcement of Representation. When the case is called, counsel or, if applicable, a *pro se* litigant must announce his/her name and the name of the party he/she represents for the record. Attorneys shall stand behind the lectern, unless otherwise authorized by the court, speaking loudly and clearly, making sure they are speaking directly in front of the microphone when addressing the court.

(b) One counsel per party. Unless leave of court is obtained in advance, only one counsel for each separate interest may conduct the examination of any one witness, present argument, or make objections with respect to the testimony of that witness. There shall be no oral confrontation or colloquy between opposing attorneys. All counsel, parties and witnesses shall be formally addressed by their surnames.

(c) Offer and Marking of Exhibits. Counsel must have any proposed exhibit marked for identification and give a copy to opposing counsel before referring to, using, or offering the exhibit into evidence.

(d) Objections. All objections must be stated with specificity prior to any argument or explanation of the same; e.g., leading, hearsay, improper foundation, etc.

(e) Witness Box. During the testimony of a witness, attorneys may only examine the witness from the lectern and may not approach the witness box except to present to the witness an exhibit pertinent to the examination, and only upon leave of court.

(f) Courtroom Attire. All persons attending or appearing before the court must dress in appropriate attire. The court reserves the right to dismiss individuals from the courtroom if they are dressed inappropriately.

Rule 5073-1

Photography, Recording Devices, and Broadcasting

(a) Photographs and Electronic Recordings. Except with the express permission of the court, photography, electronic recording, videotaping and broadcasting are not permitted in the courtroom and its environs during the progress of or in connection with judicial proceedings, whether or not court is actually in session.

(b) Definition of “Environs”. “Environs,” as used in this LBR, shall include any floor on which any courtroom or hearing room is located, including all hallways, stairways, windows, and elevators immediately adjacent to any such floor.

Rule 5075-1

Clerk – Delegated Functions Of

(a) Entry of Orders. The Clerk or Clerk’s designees are authorized to perform functions on the court’s behalf that are specifically delegated by written order, including the endorsement and entry of orders.

(b) Administrative Matters. The Clerk is authorized to promulgate regulations governing administrative matters, including proper usage of electronic filing system, Clerk’s office hours, the submission of forms, content and format of creditor mailing lists, mode of payment of filing fees, refunds of electronic fees, and disposition of records. Those regulations will be available for public reference, and will be included in such publications and at such intervals as the Clerk deems appropriate.

Rule 5077-1

Transcripts

Any party that wishes to order a transcript of a hearing or other recorded court session must complete the Transcript Order Form (AO Form 435) and deliver it to the Clerk’s office for transmittal. Arrangements for delivery of the transcript and payment shall be made directly with the transcriber.

Rule 5078-1

Fees – General

(a) Authority. The fees charged for services to be performed by the court are contained in the Bankruptcy Court Miscellaneous Fee Schedule, promulgated by the Judicial Conference of the

United States in accordance with 28 U.S.C. § 1930(b). Neither the Clerk of the court nor his/her designees has the authority to waive the payment of any prescribed fee, except as provided in the Miscellaneous Fee Schedule.

(b) Treatment Where Fee Is Not Timely Paid. The prescribed fee must be paid in advance of the service to be performed by the Clerk's office. For persons authorized to file conventionally, the Clerk will return to the filer any document without the required filing fee at the time of filing. For documents filed electronically, the Clerk will issue a "Notice of non-payment of Fee" and the Clerk will strike the document from the legal docket if payment is not made within one (1) business day from issuance of the Notice.

Rule 5079-1

Fees – Form of Payment

When filing electronically, any required fee must be paid by credit card through the internet, or through such other means as may be subsequently approved by the court. When filing conventionally, any required fee must be paid in cash, by credit card, or by cashier's check or money order payable to "Clerk, U.S. Bankruptcy Court." The Clerk will not accept personal checks or credit cards of current debtors, except for a debtor-in-possession under Chapter 11. A fee will be assessed for any dishonored check as prescribed by the Judicial Conference from time to time; this fee is also payable to "Clerk, U.S. Bankruptcy Court." The Clerk will maintain a list of persons or businesses whose checks have been dishonored, and may refuse to accept the checks of such persons or businesses.

Rule 5080-1

Judges – Visiting & Recalled

Judge Assigned from Outside the District. Whenever a Bankruptcy Judge from outside the district is assigned a Puerto Rico bankruptcy case or proceeding, the documents will continue to be filed with the Clerk's Office of the Puerto Rico Bankruptcy Court. No courtesy copies will be transmitted to the visiting judge, unless specifically requested by the court.

Rule 5081-1

Signatures – Judges

The Clerk and his/her designees are authorized to use a judge's endorsement stamp or electronic signature, which will serve as the original signature of the court, on orders, as specifically delegated by written order.

Rule 6004-1

Sale of Estate Property

(a) Sale of Property Not in the Ordinary Course of Business.

(1) Motion/Notice of Proposed Sale of Property (Subject to Liens or Free and Clear of Liens). When proposing to sell property other than in the ordinary course of business, the proponent of the sale must give notice in accordance with Fed. R. Bankr. P. 2002(a)(2), 2002(c)(1) and 6004(c), and must file a Certificate of Service with the Clerk.

(2) Scope and Content of Notice. The motion/notice must include the time and place of any proposed sale, a summary of the terms and conditions of the proposed sale, a statement of the aggregate amount of liens or encumbrances known to movant, and a statement that the proposed sale price is at least equal to or more than the value of the property. The notice must afford creditors, parties in interest, and affected parties and lienholders not less than twenty (20) days notice and opportunity to object to the proposed action, unless the Court shortens the notice period upon appropriate request.

(3) Objection to Proposed Use, Sale or Lease. An objection to the proposed use, sale, or lease, not in the ordinary course of business, shall be filed with the Court and served upon the proponent of the action not less than five (5) days before the date set for the proposed action. The Clerk shall schedule a hearing date on the objection and shall provide notice of the hearing to all parties in interest.

(4) Report of Sale. The trustee or debtor in possession shall file with the court a report of any sale of estate property outside the ordinary course of business. The report shall be filed within thirty (30) days after the sale with a copy to the United States Trustee.

(b) All-asset sales. An “all-asset sale” is defined as the sale of all or substantially all of the assets of the estate. The court will not approve an “all-asset sale,” submitted by a debtor-in-possession under 11 U.S.C. § 363, outside of a plan of reorganization unless the following requirements are satisfied:

(1) the proposed sale is submitted by the debtor during the debtor’s exclusivity period as provided for under 11 U.S.C. § 1121;

(2) the proposed sale and a proposed form of notice of the sale is first submitted to the

Court on a motion requesting approval, with notice to the United States Trustee, any committee appointed and serving in the case under 11 U.S.C. § 1102 or, if no committee has been appointed, the twenty (20) largest unsecured creditors, and any parties who have filed appearances in the case;

(3) the Court holds a preliminary hearing to consider approval of the proposed sale;

(4) the proposed form of notice will serve as a functional equivalent for the type of disclosure required if the sale were embodied in a plan of reorganization under 11 U.S.C. § 1125; and

(5) the debtor shows good cause to justify the proposed method of disposing of the entire estate.

If the foregoing requirements are not satisfied, or the proposal is made after the termination of the debtor's exclusivity period, the debtor's remedy is to consent to convert to a Chapter 7 liquidation proceeding so that a disinterested trustee may act with regard to the proposal to liquidate all of the assets of the estate.

Rule 6007-1

Abandonment

(a) **No Asset Cases.** In cases in which a no asset notice is issued and not superseded by an asset notice, the Clerk must transmit notice of the proposed abandonment in the manner specified in Fed. R. Bankr. P. 6007(a).

(b) **Effective Date of Abandonment.** The abandonment will be considered uncontested if no objection to a notice of intent to abandon is filed within fifteen (15) days of the mailing of the notice of abandonment.

Rule 7003-1

Adversary Proceedings – Cover Sheet

At the time of filing an adversary proceeding, counsel, or a *pro se* litigant, shall file with the complaint a properly completed A.O. Form B104. The Clerk is directed to provide such forms to the public upon request.

Rule 7004-1

Service of Process

Contemporaneous with service on the defendant(s), the plaintiff(s) must also serve a copy of the summons and complaint on the attorney representing the debtor and on the trustee.

Rule 7004-2

Summons

(a) Forms. For the Clerk to issue the summons, the plaintiff shall provide the summons as prescribed in Fed. R. Bankr. P. 7004 which shall conform to LBF I. Plaintiff shall present the summons to the Clerk for signature and seal. If the summons is in the proper form, the Clerk shall issue it to plaintiff for service. If the summons is not in the proper form, the Clerk will reject the issuance of the summons. If the complaint is filed by conventional means, the summons must be presented to the Clerk for issuance at the same time the complaint is being filed. If the complaint is filed electronically, the summons must be presented no later than three (3) business days after the complaint has been filed.

(b) Contested matters filed under 11 U.S.C. § 362(a) & (d). If the motion is filed by conventional means, the summons must be presented to the Clerk for issuance at the same time the motion is being filed. If the motion is filed electronically, the summons must be presented no later than one (1) business day after the motion has been filed.

Rule 7016-1

Pre-trial Procedures

(a) Scheduling of Initial Pretrial Conference. In any action the court may in its discretion schedule an initial pretrial conference, in accordance with Fed. R. Bankr. P. 7016. At such pretrial conference, the court may issue an order setting dates for:

- (1) the amendment of pleadings and joinder of additional parties;
- (2) the completion of discovery;
- (3) the filing and hearing of dispositive motions; and
- (4) a final pretrial conference and/or trial.

(b) Continuance of Dates Set in Pretrial Order. The parties and their counsel are bound by the dates specified in said order and no extensions or continuances thereof shall be granted in

the absence of a showing of good cause. Mere failure on the part of counsel to proceed promptly with the normal process of discovery shall not constitute good cause for an extension or continuance. Motions for continuance shall be filed at least five (5) days prior to the hearing.

(c) Joint Proposed Pretrial Order. In all adversary proceedings, the parties must file a proposed joint pretrial order conforming to the standards set forth in LBR 9014-1 and LBF J at least seven (7) days prior to the initial pretrial conference.

Rule 7026-1

Discovery – General

(a) Discovery Requirements. The disclosure requirements contained in Fed. R. Bankr. P. 7026 apply to all adversary proceedings pending in this district, unless otherwise ordered.

(b) Rule 7026(f) Conference. The parties must meet and confer pursuant to Fed. R. Bankr. P. 7026(f) within twenty-one (21) days before the initial pretrial conference.

(c) Discovery Plan. Pursuant to Fed. R. Bankr. P. 7026(f), the parties must submit a discovery plan within fourteen (14) days of the conference prescribed in subsection (b) of this LBR. The discovery plan must substantially conform with LBF K, and must contain the information required by Fed. R. Civ. P. 26(f)(1)-(4), including the deadline for the close of discovery, as well as the following additional information:

(1) a proposed deadline to join other parties or amend the pleadings;

(2) a proposed deadline for filing dispositive and pretrial motions; and

(3) a statement whether the parties believe that referral of the dispute for mediation would be helpful and whether or not both parties agree to such a referral.

(d) Affidavit of Noncompliance. If either party fails to perform as required in this LBR, the aggrieved party may file an affidavit stating the facts which constitute the failure to cooperate. Upon consideration of an affidavit of noncompliance and any response thereto, the court may order that the adversary proceeding continue as a defaulted matter as follows:

(1) If the plaintiff is in default regarding the holding of the Rule 7026(f) conference, the filing of the discovery plan, or any of the requirements specified in Rule 7026(f) and this LBR, the court will dismiss the matter for want of diligent prosecution. The party in default may have the matter reinstated only upon the filing of a motion showing special circumstances within ten (10) days of dismissal.

(2) If the defendant is in default regarding the holding of the Rule 7026(f) conference, the filing of the discovery plan, or any of the requirements specified in Rule 7026(f) and this LBR, the defendant will not be allowed to present its defense at trial, except by leave of court, for cause shown.

(e) Limits on Depositions and Interrogatories. The presumptive limits on the number of depositions and interrogatories contained in Fed. R. Civ. P. 30(a), 31(a) and 33(a) apply to adversary proceedings pending in this district, except:

(1) as otherwise stipulated by the parties in writing; or

(2) if no stipulation can be reached between the parties regarding limits on discovery at the Rule 7026(f) meeting, parties may request exemptions to discovery limits at the preliminary pretrial hearing.

(f) Discovery Materials Must Not Be Filed With the Court. *See* LBR 5005- 1(a).

(g) Objections In Writing. If the parties are unable to resolve a discovery dispute, all objections to interrogatories, depositions, requests, or applications under Fed. R. Bankr. P. 7026 through 7037, as well as motions and replies thereto concerning discovery matters, shall be in writing. If time does not permit the filing of a written motion, the Court may waive this requirement.

(h) Sanctions. Should any party or the party's counsel fail to comply with any of the provisions of this LBR, or otherwise fail or refuse to meet and confer in good faith in an effort to narrow the areas of disagreement concerning discovery, sanctions provided by Fed. R. Bankr. P. 7037, may be imposed.

Rule 7037-1

Failure to make discovery

(a) Fed. R. Civ. P. 37 Applicable. Fed. R. Civ. P. 37 applies to adversary proceedings and contested matters pending in this district.

(b) Conference. Prior to the filing of a motion relating to discovery pursuant to Fed. R. Bankr. P. 7026 through 7037, counsel must confer in a good faith effort to eliminate the necessity for filing the motion or to eliminate as many discovery disputes as possible. The conference must be arranged by counsel for the moving party. The Clerk will not calendar for hearing any such motion unless the moving party certifies that such a conference has taken place, or certifies that

it has made reasonable efforts to hold such a conference but has been unable to arrange the conference or resolve the dispute.

(c) Cooperation Required. These procedures for the resolution of discovery motions require the cooperation of counsel. Thus, if any attorney fails to cooperate with these procedures, the court may impose sanctions, including, but not limited to, the sanctions provided in Fed. R. Bankr. P. 7037.

Rule 7041-1

Dismissal of Related Adversary Proceedings and/or Contested Matters

Whenever a case under the Bankruptcy Code is dismissed by order of the court, any related adversary proceeding and/or contested matter pending, in which final judgment has not been entered, will be dismissed without prejudice and without further order of the court.

Rule 7055-1

Default

(a) Entry by Clerk. Any motion for the Clerk to enter default shall be accompanied by supporting declarations establishing the elements required by Fed. R. Bankr. P. 7055 (Fed. R. Civ. P. 55 (a)) and proof of service on the defaulting parties.

(b) Judgment. The court will not enter any judgments if a movant does not supply the required affidavit of military service. At the time of the filing of the request for judgment, movant must file an affidavit with the court which (a) states whether or not the respondent is in military service and shows necessary facts to support the affidavit, or (b) if movant is unable to determine whether or not the respondent is in military service, states that movant is unable to so determine. If the court is unable to ascertain a respondent's military status from the presented affidavit, it may require movant to file a bond before entering any default judgment.

Rule 7055-2

Dismissal for Want of Prosecution

(a) Grounds. In any adversary proceeding in which no action has been taken by any party during the preceding six (6) months, the Clerk will mail notice to all persons who have entered their appearance that the adversary proceeding will be dismissed thirty (30) days from the date that the notice is mailed, subject to the provisions of subsection (c) of this LBR.

(b) Dismissal. Subject to the provisions of subsection (c) of this LBR, after the thirtieth (30th) day following the mailing of the notice, the Clerk will enter an order of dismissal without prejudice and serve the order upon the appearing parties.

(c) Avoiding Dismissal. The Clerk will not dismiss an adversary proceeding for want of prosecution under this LBR if a party to the proceeding initiates either of the following actions within thirty (30) days of the mailing of the notice:

- (1) Files a motion, discovery request, or takes some other action in the matter; or,
- (2) Files a motion opposing the dismissal.

(d) Effect of Dismissal. The dismissal of an adversary proceeding pursuant to this LBR is without prejudice and without the imposition of costs, unless the court orders otherwise, or on motion of a party.

Rule 7056-1

Summary Judgment

LDR 56 is adopted and made applicable to adversary proceedings and contested matters in the Bankruptcy Court.

Rule 7064-1

Seizure of Persons and Property

(a) Writs or Other Process. All writs or other process issued for the seizure of persons or property pursuant to Fed. R. Civ. P. 64, 69 and 70 shall be issued, attested, signed and sealed as required for writs issued out of this court. Any writ or other process for seizure in a civil action shall only be directed to, executed and returned by the United States Marshal or by a local law enforcement officer authorized by local law or a private person specially appointed by the court for that purpose pursuant to a motion and order. An order of the court requiring entry upon private premises without notice shall only be executed by the United States Marshal, a local law enforcement officer, or a private person specially appointed by the court for that purpose pursuant to a motion and order. If a writ or other process is to be executed by a private person, the private person shall be accompanied by a United States Marshal or a local law enforcement officer, who shall be present upon the premises during the execution of the order.

Any eviction to be made pursuant to a Writ of Possession issued by the court pursuant to 11 U.S.C. § 365(d)(4) shall be made by a local law enforcement officer authorized by local law to execute such writs issued under local law unless otherwise ordered by the court.

(b) Use of United States Marshal. The court encourages the use of local remedies and officers wherever appropriate to enforce federal judgments as necessary.

Rule 7065-1

Injunctions

Temporary restraining orders and preliminary injunctions may be sought as provisional remedies in a pending adversary proceeding, not in the bankruptcy case itself. An adversary complaint must already be on file or be filed at the same time that the request for a temporary restraining order or preliminary injunction is made.

Rule 7067-1

Registry Account

(a) Form of Deposit. All monies consigned in the court's Registry Account pursuant to 28 U.S.C. § 2041 must be in the form of a certified check, bank draft, manager's check, money order, or similar instrument. It must be payable to "Clerk, U.S. Bankruptcy Court." The Clerk will not accept personal or third party checks. The Clerk shall reject any monies consigned, unless payment is made as hereby indicated. The Clerk shall deposit the money forthwith.

(b) Fees Charged on Registry Funds. All funds deposited on or after December 1, 1990, and invested as registry funds will be assessed a charge against the interest earned according to law. Fees may be deducted periodically without further order and will be subject to any subsequent exceptions or adjustments by the directive of the Administrative Office of the United States Courts.

(c) Disbursement of Registry Funds. The Clerk shall disburse funds on deposit in the registry of the court only pursuant to court order. Funds shall be disbursed only after the time for appeal of the related judgment or order has expired, or upon approval by the court of a written stipulation by all parties.

(d) Earned Interest. Whenever the court authorizes and/or orders the disbursement of registry funds to a party, the proportionate interest accrued, if any, will be for the benefit of said party, unless otherwise ordered. The Clerk's fee will be deducted prior to the payment of any interest.

Rule 8001-1

Manner of Taking Appeal

(a) Appellant Election Form. Upon the filing of a Notice of Appeal with the Clerk, the appellant must also complete and file an Appellant Election Form, LBF L, that indicates whether the appeal is being taken to the U.S. District Court or the Bankruptcy Appellate Panel of the First Circuit.

(b) Appeals to Bankruptcy Appellate Panel. The Rules of the Bankruptcy Appellate Panel apply to all bankruptcy appeals pending before the panel.

Rule 8006-1

Record on Appeal

(a) Designating Record on Appeal. Unless the parties file a timely written designation of record with the Clerk pursuant to Fed. R. Bankr. P. 8006 designating the papers which shall constitute the record on appeal, the Clerk shall forward to the proper appellate court a certification that no designation of record was filed.

(b) Copies of Record.

(1) If the District Court is elected, the party filing a designation of items to be included in the record on appeal shall not include copies of the documents designated, because documents are transmitted electronically to the District Court.

(2) With the exception of paragraph (3) below, if the Bankruptcy Appellate Panel is elected, or the Court of Appeals certifies a direct appeal, the party filing a designation of items to be included in the record on appeal shall file with the designation either:

(A) a complete and correct copy of all items designated; or

(B) a copy request form with check payable to the “Clerk, U.S. Bankruptcy Court” for the total amount of copies needed to complete the record on appeal. Copy request forms are available from the Clerk’s office upon request.

(3) The copies required in paragraph (2) above will not be necessary after the District Court, Court of Appeals and the Bankruptcy Appellate Panel accept electronic filing.

(c) Documents filed after Record on Appeal is Transmitted. After transmittal of the record to the District Court or the Bankruptcy Appellate Panel, any further pleadings pertaining to the appeal must be filed with the Clerk of the U.S. District Court or the Clerk of the Bankruptcy Appellate Panel. All documents relating to other aspects of the bankruptcy case or proceeding shall be filed in the normal manner with the Clerk of the Bankruptcy Court.

Rule 9004-2

Caption – Papers

See LBR 1005-1 and 7003-1. The caption for all documents filed in an adversary proceeding must include the adversary number.

Rule 9009-1

Official Local Forms

The Local Bankruptcy Forms prescribed in these Rules are set out in Appendix A. They shall be observed and used with alterations as may be appropriate.

Rule 9010-1

Attorneys – Admission to Practice, Representation and Appearances

(a) Admission to Practice and Admission Pro Hac Vice. *See* LBR 2090-1.

(b) Local Counsel not Required in Uncontested Matters. An attorney may appear pro hac vice without a local attorney if the matter is uncontested, with the exception of representation as counsel to a debtor or trustee. However, if the matter is, or becomes contested, local counsel must enter an appearance at least five (5) days before the scheduled hearing.

(c) Representation.

(1) Counsel Required *Pro se* Appearance. All persons, other than an individual representing himself/herself, must be represented by counsel in proceedings before this court. Any individual representing himself or herself without an attorney must appear personally for all purposes. Any individual appearing without an attorney is required to

comply with these LBRs, the Federal Rules of Bankruptcy Procedure and the Federal Rules of Evidence.

(2) Corporations, Partnerships, and Trusts. Notwithstanding subsection (c)(1) of this LBR, a corporation, partnership, or trust, by and through an officer or agent, or a person authorized by a power of attorney, may file a proof of claim. Otherwise, these entities may appear only through counsel.

(3) No Entry of Appearance Required. An attorney does not need to obtain leave of court to appear and practice in a particular case merely to file a request for service or a proof of claim on behalf of a client.

(4) Representation of Debtor. An attorney that represents a debtor in a bankruptcy case must represent the debtor in any adversary proceeding filed within the bankruptcy case in which the debtor is a named defendant, unless the debtor expressly agrees otherwise in writing at the commencement of the representation.

(5) Child Support Creditors and Representative. A child support creditor or representative may appear and intervene in cases and proceedings upon the filing of the AO Form B281.

(d) Appearances.

(1) Filing Constitutes Appearance. When an attorney files a signed pleading or other paper, the filing constitutes an appearance by that attorney in the case or proceeding in which the pleading or other paper is filed, unless the pleading or paper states otherwise.

(2) Request for Service of Papers.

(A) Filed Papers. In order to receive copies of filed papers, an attorney must:

- (i)** file a formal notice of appearance that specifically requests to be served; and
- (ii)** serve a copy of the request for service upon the debtor's attorney or the debtor, if *pro se*, the case trustee, and the United States Trustee. Otherwise, the attorney will receive only those papers that deal directly with its client, as required by the Federal Rules of Bankruptcy Procedure.

(B) Orders Served by the Court. An attorney will only receive notices and

orders served by the court that deal directly with its client, as required by the Federal Rules of Bankruptcy Procedure, or as otherwise directed by the court.

(3) Withdrawal of Attorney.

(A) Leave of Court Not Required. An attorney representing a party may withdraw from a case or proceeding without leave of court by filing a Notice of Withdrawal with the Court, provided that:

- (i) the Notice of Withdrawal is accompanied by a Notice of Appearance of other counsel; or
- (ii) by certification by the attorney seeking to withdraw that his or her client or clients have been advised regarding the procedures and responsibilities related to appearing *pro se*, and that after conferring with the attorney, the client or clients have stated their intention to proceed *pro se*;
- (iii) there are no motions pending before the Court; and
- (iv) no trial or hearing date has been scheduled.

(B) Service of Notice of Withdrawal. The attorney must serve the Notice of Withdrawal upon the following parties:

- (i) its client;
- (ii) the United States Trustee;
- (iii) any trustee serving in the case;
- (iv) in Chapter 11 cases, any committee that has been appointed and is serving in the case under 11 U.S.C. § 1102, or counsel or authorized agent for that committee;
- (v) in adversary proceedings, all parties to the proceeding; and
- (vi) all other persons or parties that the court may require.

(C) Leave of Court Required. An attorney must file a Motion for Leave to Withdraw if any of the requirements set forth in subparagraph (A) are lacking, and must serve that motion upon the parties listed in subparagraph (B).

Counsel remains the attorney of record in the case or proceeding until the court enters an order granting the withdrawal.

(D) Duties upon withdrawal. An attorney granted leave to withdraw shall immediately serve on his or her client the order permitting withdrawal, which order shall direct the client to appear by new counsel or, if an individual, *pro se*, within thirty (30) days from the date of the order or within such shorter period as the Court may direct.

Rule 9011-1

Penalties for Unnecessary or Unwarranted Motion

Pursuant to Fed. R. Bankr. P. 9011, the presentation to the court of unnecessary motions, and the unwarranted opposition to motions, which unduly delay the course of an action or proceeding, or failure to comply fully with these LBRs, subjects the offender and attorney, at the discretion of the court, to appropriate discipline, including the imposition of costs and the award of attorney's fees to opposing counsel, and such other sanctions, including denial of the motion or dismissal of the proceeding, as may appear proper to the court, under the circumstances. This section applies to violations of the LBRs which may not otherwise be subject to sanctions under either Fed. R. Bankr. P. 9011 or Fed. R. Civ. P. 11.

Rule 9011-2

Signing of Electronically Transmitted Pleadings, Representation to the Court

(a) Responsibility for Use of Login and Password. An attorney or other person who is assigned a court-issued login and password to file documents electronically is responsible for all documents filed using that login and password.

(b) Signature and Certification. The transmission of a petition, pleading, motion or other paper by electronic means shall constitute a signature by both the attorney or other person responsible for transmitting it, as required by Fed. R. Bankr. R. 9011(b). Such transmission shall also constitute a representation by the attorney or other person responsible for an electronic transmission to the court that he or she is in possession of the original petition, pleading, motion or other paper, with all original signatures thereon, other than those papers signed solely by the filing user and co-counsel.

Rule 9011-3

Maintenance and Production of Original Documents

(a) Maintenance. The attorney or other person responsible for an electronic transmission to the court shall maintain the original petition, pleading, motion or other paper filed by electronic means, according to the terms in LBR 5005-4(e).

(b) Production. Upon reasonable request by the court or an interested party, the attorney or other person responsible for an electronic filing shall produce for inspection and copying the original petition, pleading, motion, or other paper filed by electronic means, with all original signatures thereon.

Rule 9013-1

Motions Practice

(a) Definition of Motion. For purposes of this LBR, “motion” includes any motion, application, other request for relief from the court, or proposed action to be taken under the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, or these LBRs, excluding the following:

- (1) any petition commencing a case under the Bankruptcy Code;
- (2) any complaint commencing an adversary proceeding under the Federal Rules of Bankruptcy Procedure;
- (3) any motion for relief from the automatic stay;
- (4) any proposed order; or
- (5) an objection to claim. *See* LBR 3007-1.

(b) Requirement of Written Motion. In all cases or proceedings, all motions shall be in writing and be originally or electronically signed by movant or movant’s counsel unless it is made during the course of a hearing or trial. All motions must state with particularity the grounds therefor and the relief or order sought, must set forth each allegation in a numbered paragraph, and must be filed with the Clerk. If a hearing on the motion has been set or requested by the movant, the motion shall so state. The court will not consider any request made by letter, and the Clerk’s office will return any such letter filed.

(c) Oppositions.

(1) In any opposition to a motion, the opposing party must admit or deny each allegation of the motion, assert any affirmative defense to the motion, and specifically state why the relief requested should not be granted.

(2) Any opposition to a motion must be filed within the times prescribed in Section (h) of this LBR. If a motion is not opposed in a timely manner, the Court will deem it unopposed and may grant the relief requested unless the relief requested is prohibited by law, is against public policy, or, in the Court's opinion, the interest of justice requires otherwise.

(d) Action Without Hearing. The court may act upon a motion without a hearing under appropriate circumstances, including the following:

(1) if no objection is filed within the times prescribed in Section (h);

(2) prior to the expiration of any applicable objection period, if the motion is:

(A) a non-adversarial motion of a routine nature;

(B) a motion to which all affected parties in interest have consented;

(C) a motion that is without merit in light of the law and the established facts of the case; or

(D) a motion that is opposed only by objections which are, given the law and the established facts of the case, without merit.

(e) Scheduling of Motion for Hearing. If the court determines that a motion must be or should be scheduled for hearing, the Clerk will notify parties in interest of the scheduled hearing date.

(f) Emergency Motions. If a movant seeks to have the court consider a motion on an expedited basis, it must file a separate motion entitled "Emergency Motion" and must call the attention of the Clerk to the emergency filing.

(1) Contents of Emergency Motion. The emergency motion shall be accompanied by a certification verifying that the proponent:

(i) has carefully examined the matter and concluded that there is a true need for

an emergency hearing;

(ii) has not created the emergency through any lack of due diligence;

(iii) has made a bona fide effort to resolve the matter without a hearing.

(2) Limited Notice. Notice of an emergency motion shall be given by the party filing an emergency motion, and the party filing the motion must make a good faith effort to advise all affected parties of the motion and of the time and date for hearing, if any. These good faith efforts may include providing notice of the substance of the motion and of the date and time of hearings by telephone or facsimile transmission. These efforts may, and in appropriate circumstances should, include attempts to provide notice of the motion and a motion for an order limiting notice in advance of filing the motions.

(3) Responses to Emergency Motions. Written responses to emergency motions are required within the time established by the Court. If no response time is established by the Court, responses may be filed up to the time that the hearing is convened.

(4) Hearings on Emergency Motions. The Court will set the conditions for the emergency hearing and will schedule and conduct the hearing, telephonically or otherwise, as appropriate under the circumstances.

(5) Duty of Movant and Counsel to be Available. Upon the filing of a request for emergency treatment of a motion, movant and its counsel have a duty to be and remain available for immediate hearing or contact by the Court with respect to the emergency request.

(g) Ex-Parte Motions. A motion seeking ex-parte relief may be filed only in circumstances in which immediate action is required to maintain the status quo until an appropriate hearing on notice can be conducted. A motion for ex-parte relief must be verified or supported by affidavit and must set forth specific facts and circumstances that necessitate ex-parte relief. The motion shall include a statement as to why the procedures in Section (f) of this LBR for emergency hearings are not practical. All orders or proposed orders providing ex-parte relief must include the finding that the relief requested could not be delayed, and must indicate that the affected parties may request a hearing on the subject matter addressed in the ex parte motion by filing a motion for review of the ex-parte relief within ten (10) days of service of the order for ex-parte relief. If appropriate, the Court will schedule a hearing on such ex-parte motion as soon as practicable.

(h) Required Response Time Language Must be Included on All Papers.

(1) Usual Papers. Adequate notice must be given to interested parties of the time to respond to every motion, application, petition, objection to claim, or objection to exemption filed with the Clerk's office. Excluded from this requirement are those motions set forth in paragraph (2) below, and the bankruptcy petition. This notice may be in single or double space, must be in at least 11 point type, and must contain language substantially similar to the following:

Within ten (10) days after service as evidenced by the certification, and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if you were served by mail, any party against whom this paper has been served, or any other party to the action who objects to the relief sought herein, shall serve and file an objection or other appropriate response to this paper with the Clerk's office of the U.S. Bankruptcy Court for the District of Puerto Rico. If no objection or other response is timely filed within the time allowed herein, the paper will be deemed unopposed and will be granted unless: (i) the requested relief is forbidden by law;

(ii) the requested relief is against public policy; or (iii) in the opinion of the Court, the interest of justice requires otherwise.

(2) Excepted Papers with Different Response Times. A different objection/response time applies to the following matters and should be substituted for the ten (10) day period above:

(A) Application to Compromise – Twenty (20) days;

(B) Motion/Notice of Intended Sale – Twenty (20) days;

(C) Motion to Amend or Modify a Plan – Twenty (20) days;

(D) Application (or Notice) to Abandon – Fifteen (15) days;

(E) Motion to Shorten Time (Expedited Treatment) – Five (5) business days;

(F) Emergency Motion for Relief – left to discretion of Court, above language should not be used;

(G) Motion for Rule 2004 Examination – *See* LBR 2004-1(d)(2);

(H) Motion to Dismiss - Thirty (30) days; and,

(I) Motion for Relief of Stay under 11 U.S.C. § 362 - Eleven (11) days.

(3) Objection to Claim. *See* LBR 3007-1(c).

Rule 9013-2

Briefs and Memoranda of Law

(a) Supporting Memorandum Required With All Written Motions and Responses.

Except as provided in subsection (b) of this LBR, any motion or response thereto must be accompanied by a supporting memorandum that contains the points and authorities in support of the party's position, together with any affidavits or documents in support thereof. The memorandum must also include specific reference to the applicable provisions of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, these LBRs, or other controlling authorities. The memorandum and motion or response thereto may be combined in a single pleading.

(b) Motions That Do Not Require a Memorandum. The following motions do not require an accompanying memorandum, unless otherwise ordered by the Court:

- (1)** Motion to extend time or to continue hearing date;
- (2)** Motion to request a hearing;
- (3)** Motion to add creditor(s), except in reopened cases;
- (4)** Motion to amend schedules;
- (5)** Motion to compel;
- (6)** Motion for a default judgment;
- (7)** Motion solely related to discovery matters;
- (8)** Motion for a voluntary dismissal or conversion under Chapters 7, 11, 12 or 13 of Title 11 United States Code;
- (9)** Motion that is stipulated to by all parties in interest;
- (10)** Motion to avoid a lien pursuant to §522(f);and,
- (11)** Motion for a more definite statement.

Rule 9013-3

Certificate of Service – Motions; Notice of Hearing

(a) Service of Motions. In all instances not otherwise covered by the Federal Rules of Bankruptcy Procedure or these LBRs, all motions filed with the Court must be served on the following parties:

(1) the United States Trustee, with the exception of motions for relief from stay in Chapter 7 cases and all motions in Chapter 13 cases;

(2) any case trustee;

(3) any other party affected by the motion or that has requested notice in the case; and

(4) the debtor's attorney, or debtor if *pro se*, except for motions for relief from stay which are served by summons. *See* LBR 4001-1(a).

(b) Contents of Certificate of Service. The certificate of service must reflect how and when service was made and must include the names and addresses of all persons served and the name and address of the person certifying the service.

(c) Filing and Serving of Certificate of Service. When a certificate of service is required, the certificate must be filed with the Clerk contemporaneously with the motion or other paper and shall be placed at the end of the item served.

(d) Notice Ordered by the Court. Upon receipt of a notice of hearing from the Court with instructions to serve other parties, counsel or a *pro se* party must serve the document upon all affected persons and upon all persons who have filed appearances and requested notice in the case, within any applicable notice deadlines contained in the Federal Rules of Bankruptcy Procedure or these LBRs, or as established by the Court. A certificate of service must be filed with the Clerk in the manner provided for in this LBR.

Rule 9013-5

Responsibility for Proper Service

(a) Parties entitled to service. It is the obligation of an attorney or party that files a pleading to determine every party with a cognizable interest in the pleading that should receive a copy and the current address of each. A certificate of service signed by an attorney, by an attorney's authorized agent or by a party constitutes a representation to the Court that all parties entitled to

service have been included and have been properly served. Violation of this paragraph shall be subject to appropriate sanctions.

(b) Review of Clerk's Notice. It is the obligation of an attorney or party filing a motion to review any notice of a hearing on that motion prepared by the Clerk and to communicate forthwith to the Clerk any deficiency in the notice and any omission in the list of parties receiving notice.

Rule 9014-1

Contested Matters

(a) Rule 9013 Governs Procedure. LBR 9013-1 and 9013-2 govern motion practice in any contested matter.

(b) Fed. R. Bankr. P. 7026 Does Not Apply. Fed. R. Bankr. P. 7026 does not apply to contested matters governed by Rule 9014, unless otherwise ordered by the Court.

(c) Service and Certificate of Service. Movant must serve the motion by mail in the manner provided by Fed. R. Bankr. P. 7004, unless another manner of service is ordered by the Court. Except for relief from stay motions, no summons is required. Movant must file with the Clerk a certificate of service that complies with LBR 9013-3.

(d) Pretrial Orders and Conferences. Unless provided otherwise in a notice or order, pretrial orders and pretrial conferences are not required in contested matters. At any time, any party may file a motion requesting a pretrial conference.

(e) Duty to File Joint Pretrial Order. Where the Court determines that the filing of a Joint Pretrial Order would facilitate and expedite the hearing of a contested matter, the parties will be directed to file a Joint Pretrial Order within the time established by the Court, in accordance with the requirements set forth in paragraphs (1) and (2) below and in the form described in LBF J.

(1) Initial Draft by Plaintiff/Movant. In all instances that require the filing of a Joint Pretrial Order, it is the plaintiff/movant's responsibility to prepare the initial draft of the order and to serve it on opposing counsel at least four (4) business days before the order is due in the Clerk's office. The opposing party must submit any comments or revisions within two (2) business days, to finalize the order. If either party fails to perform as required herein, the aggrieved party must file an affidavit stating the facts which constitute the failure to cooperate.

(2) Affidavit of Noncompliance. Upon consideration of an affidavit filed in accordance with paragraph (e)(1) of this LBR and any response thereto, the Court may order that the motion or contested matter proceed as a defaulted matter in the following manner:

(A) If the plaintiff/movant is in default as to the filing of the Joint Pretrial Order or any of the requirements specified in subsection (e)(1) of this LBR, the Court may dismiss the matter for want of diligent prosecution.

(B) If the defendant/respondent is in default as to the filing of the Joint Pretrial Order or any of the requirements specified in subsection (e)(1) of this LBR, the defendant/respondent will not be allowed to present its defense at trial, except by leave of Court, for cause shown.

(f) Duty to Confer Prior to Evidentiary Hearing. Prior to the commencement of an evidentiary hearing on a contested matter, counsel must confer in a good faith effort to resolve the dispute, and must represent that they have conferred and failed to settle the dispute before presenting any evidence. The plaintiff/movant or party objecting to a claim must initiate the settlement conference.

Rule 9015-1

Jury Trials

(a) Jury demand. In any case in which a party asserts the right to a jury trial, the jury trial demand must be made pursuant to Fed. R. Civ. P. 38, and filed in accordance with Fed. R. Bankr. P. 5005. Nothing in this rule shall be deemed to (1) create or imply a right to trial by jury where such right does not otherwise exist under applicable law, or (2) violate a party's right of trial by jury as set forth in the Seventh Amendment to the Constitution or in any statute of the United States. On motion or on its own initiative, the Court may determine whether there is a right to trial by jury in any adversary proceedings or contested matter or whether a jury demand should be granted or stricken.

(b) Consent to Have Trial Conducted by Bankruptcy Judge. The parties may consent to have a trial by jury conducted by a bankruptcy judge under 28 U.S.C. § 157(e) if the following requirements are met:

(1) the right to a jury trial applies;

(2) a timely demand has been filed;

(3) the bankruptcy judge has been specially designated by the District Court to conduct the jury trial; and

(4) the parties jointly file a statement of consent within thirty (30) days of the date following the date that the last responsive pleading is required to be filed.

(c) Lack of Mutual Consent to Have Jury Trial Conducted by Bankruptcy Judge. A proceeding must be referred to the District Court if the first three requirements of subsection (b) of this LBR are met but not all of the parties consent to the trial being conducted before a Bankruptcy Judge.

Rule 9018-1

Secret, Confidential, Scandalous or Defamatory Matter

To file a document under seal, the following procedure must be followed:

(a) Sealing Original Material. The original material must be sealed in an envelope with the caption (case name, case number, adversary proceeding number, if applicable, and title of document) on the front of the envelope. No copies of sealed material shall be filed.

(b) Motion and Proposed Order. The sealed material must be accompanied by a motion and proposed order directing the Clerk to place the material under seal. The proposed order shall identify the parties, if any, who may have access to material that is under seal and under what circumstances.

c) Determination of Motion to Submit Sealed Materials. If a motion to submit sealed materials is denied, the papers shall be returned to the movant and, if refiled, shall be filed with other pleadings in the case to which public access is allowed. If a motion to submit sealed materials is granted, an order shall be entered with the pleadings in the case. A copy of that order shall accompany the sealed materials and be delivered to the Clerk.

(d) Filing. Material under seal must be filed with an Intake Clerk at the counter and cannot be filed in the drop box.

(e) Access to Sealed Material. Access to material that is under seal for parties not already authorized shall be by motion. An order granting access must be presented to the Clerk's representative at the time of access.

Rule 9019-1

Stipulations

(a) Signed writing required. All stipulations affecting a case or proceeding before the Court, except stipulations made in open Court, must be in writing, signed by all affected parties and filed with the Court. No stipulations will have the effect of relieving a party from a prior order of the Court, unless the Court approves the stipulation.

(b) Time to File. When a proceeding or matter is settled in open Court, the parties shall, within ten (10) days or such other time as the Court may direct, file a signed stipulation or agreement.

Rule 9027-1

Removal and Remand

(a) Filing requirement. The party filing a notice of removal of an action from local or federal court to this court pursuant to Fed. R. Bankr. P. 9027 must file with the Clerk true and accurate copies of all pertinent papers filed in the Court from which removal is sought, and a certified or attested copy of all docket entries in that action, within ten (10) days of filing the notice of removal.

(b) Party information. Any party removing a civil action to this Court must file with the Clerk a list containing the name of each party to the removed case, and the names, addresses, and telephone numbers of their counsel or, if *pro se*, the party.

Rule 9036-1

Notice by Electronic Transmission

The Clerk will give notice by electronic transmission to any entity entitled to receive notice if a written request is made by the entity for electronic notice. Filing Users of the Electronic Case Filing System consent to notice by electronic transmission upon registration as filing users. Electronic notice is provided through the case filing system. For the Clerk to provide notice by electronic transmission to any party who is not a filing user and has consented to receive notice in this fashion, the party must execute an electronic noticing agreement with the entity that provides noticing services for the bankruptcy courts and otherwise meet the system requirements for electronic noticing.

Rule 9070-1

Exhibits

(a) Exhibits Must be Filed With Joint Pretrial Order. In cases where a Joint Pretrial Order is required, the parties to an adversary proceeding or contested matter must file the exhibits with the Joint Pretrial Order, and bring three (3) copies to the hearing. These copies are in addition to those previously exchanged between counsel. Each set of exhibits must be accompanied by an exhibit list using LBF M. The movant/plaintiff's exhibits must be marked alphabetically (A-Z) and the respondent/defendant's exhibits must be marked numerically (1-100).

(b) Exhibits Where No Joint Pretrial Order Is Required. In a contested matter where a Pretrial Order is not required, each party must bring to the hearing three (3) copies of all exhibits to be offered at the hearing. These copies are in addition to those previously exchanged between counsel. Each set of exhibits must be accompanied by an exhibit list using LBF M and must be marked in accordance with subsection (a) of this LBR.

(c) Form of Exhibits. Copies of exhibits that are intended to be offered as exhibits in a contested matter or hearing must be legible and copies of photographs must be in color, unless the original photograph is in black and white. Exhibits submitted in violation of this rule will not be admissible into evidence. All exhibits and documentary evidence in Spanish, or other language, shall be fully translated to the English language by a certified translator.

(d) Release of Exhibits After Trial. Exhibits will remain in the custody of the Court at the conclusion of the hearing. If there is no appeal from the Court's decision after the time for filing a notice of appeal has elapsed, or after any appeal has been finally determined, the parties may withdraw the exhibits and if they are not withdrawn within that time period the Clerk will dispose of them without further notice. The request to withdraw the exhibit(s) must be made in writing to the Clerk.

Rule 9074-1

Telephone Conferences

(a) Request for Telephonic Proceedings. A party may request that a hearing or conference be conducted by telephone. The request must be made in writing no less than three (3) days prior to the scheduled hearing, unless otherwise authorized by the Court. The Court will determine whether to grant the request on the basis of, inter alia, conservation of the time and resources of the parties and the Court.

(b) Trials and Evidentiary Hearings. Telephonic appearances are not allowed in trials, nor in evidentiary hearings, nor in other matters designated by the Court as requiring a personal appearance.

(c) Reliance on Written Submissions and Use of Exhibits. Copies of any written submission or exhibit to be considered in connection with a matter scheduled for a telephonic hearing or conference must be filed with the Clerk and served upon the parties in a timely fashion in accordance with LBR 9070-1.

(d) Duty of Movant and Counsel to be Available. Upon the filing of a request for a telephone conference, movant and counsel have a duty to be and remain available for immediate hearing or contact by the Court with respect to their request.

(e) Arrangements. Telephonic appearance will be allowed through the entity that provides telephone conference services to the Court as established by the Clerk's office.